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H – 2754

International Court of Justice

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GOERING

Goering is indicted on all four counts. The evidence shows that after Hitler, he was the most prominent man in the Nazi Regime. He was Commander-in-Chief of the Luftwaffe, Plenipotentiary for the Four Year Plan, and had tremendous influence with Hitler, at least until 1943 when their relationship deteriorated, ending in his arrest in 1945. He testified that Hitler kept him informed of all important military and political problems.

Crimes against Peace

From the moment he joined the Party in 1922 and took command of the streetfighting organization, the SA, Goering was the adviser, the active agent of Hitler and one of the prime leaders of the Nazi movement. As Hitler's political deputy he was largely instrumental in bringing the National Socialists to power in 1933, and was charged with consolidating this power and expanding German armed might. He developed the Gestapo, and created the first concentration camps, relinquishing them to Himmler in 1934, conducted the Roehm purge in that year, and engineered the sordid proceedings which resulted in the removal of von Blomberg and von Fritsch from the Army. In 1936 he became Plenipotentiary for the Four Year Plan, and in theory and in practice was the economic dictator of the Reich. Shortly after the Pact of Munich, he announced that he would embark on a five-fold expansion of the Luftwaffe, and speed rearmament with emphasis on offensive weapons.

Goering was one of the five important leaders present at the Hoszbach Conference of 5 November 1937, and he attended the other important conferences

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already discussed in this Judgment. In the Austrian Anschluss, he was indeed the central figure, the ringleader. He said in Court: "I must take 100% responsibility ... I even overruled objections by the Fuehrer and brought everything to its final development". In the seizure of the Sudetenland, he played his role as Luftwaffe chief by planning an air offensive which proved unnecessary, and his role as politician by lulling the Czechs with false promises of friendship. The night before the invasion of Czechoslovakia and the absorption of Bohemia and Moravia, at a conference with Hitler and President Hacha he threatened to bomb Prague if Hacha did not submit. This threat he admitted in his testimony.

Goering attended the Reich Chancellery meeting of 23 May 1939 when Hitler told his military leaders "there is, therefore, no question of sparing Poland", and was present at the Obersalzburg briefing of ~~23~~ 22 August 1939. And the evidence shows he was active in the diplomatic maneuvers which followed. With Hitler's connivance, he used the Swedish businessman, Dahlerus, as a go-between to the British, as described by Dahlerus to this Tribunal, to try to prevent the British Government from keeping its guarantee to the Poles.

He commanded the Luftwaffe in the attack on Poland and throughout the aggressive wars which followed.

Even if he opposed Hitler's plans against Norway and the Soviet Union as he alleged, it is clear that he did so only for strategic reasons; once Hitler had decided the issue, he followed him without hesitation. He made it clear in his testimony that these differences were never ideological or legal. He was "in a rage" about the invasion of Norway, but only because

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he had not received sufficient warning to prepare the Luftwaffe offensive. He admitted he approved of the attack: "My attitude was perfectly positive". He was active in preparing and executing the Yugoslavian and Greek campaigns, and testified that "Plan Marita", the attack on Greece, had been prepared long beforehand. The Soviet Union he regarded as the "most threatening menace to Germany", but said there was no immediate military necessity for the attack. Indeed, his only objection to the war of aggression against the U.S.S.R. was its timing; he wished for strategic reasons to delay until Britain was conquered. He testified: "My point of view was decided by political and military reasons only".

After his own admissions to this Tribunal, from the positions which he held, the conferences he attended, and the public words he uttered, there can remain no doubt that Goering was the moving force for aggressive war second only to Hitler. He was the planner and prime mover in the military and diplomatic preparation for war which Germany pursued.

War Crimes and Crimes against Humanity

The record is filled with Goering's admissions of his complicity in the use of slave labour. "We did use this labour for security reasons so that they would not be active in their own country and would not work against us. On the other hand, they served to help in the economic war." And again: "workers were forced to come to the Reich. That is something I have not denied". The man who spoke these words was Plenipotentiary for the Four Year Plan charged with the recruitment and allocation of manpower. As Luftwaffe Commander-in-Chief he demanded from Himmler more slave labourers for his underground aircraft factories: "That I requested inmates of concentration camps for the armament of the Luftwaffe is correct and it is to be taken as a matter of course".

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As Plenipotentiary, Goering signed a directive concerning the treatment of Polish workers in Germany and implemented it by regulations of the SD, including "special treatment". He issued directives to use Soviet and French prisoners of war in the armament industry; he spoke of seizing Poles and Dutch and making them prisoners of war if necessary, and using them for work. He agrees Russian prisoners of war were used to man anti-aircraft batteries.

As Plenipotentiary, Goering was the active authority in the spoliation of conquered territory. He made plans for the spoliation of Soviet territory long before the war on the Soviet Union. Two months prior to the invasion of the Soviet Union, Hitler gave Goering the overall direction for the economic administration in the territory. Goering set up an economic staff for this function. As Reichsmarshal of the Greater German Reich, "the orders of the Reich Marshal cover all economic fields, including nutrition and agriculture". His so-called "Green" folder, printed by the Wehrmacht, set up an "Economic Executive Staff, East". This directive contemplated plundering and abandonment of all industry in the food deficit regions and, from the food surplus regions, a diversion of food to German needs. Goering claims its purposes have been misunderstood but admits "that as a matter of course and a matter of duty we would have used Russia for our purposes", when conquered.

And he participated in the conference of 16 July 1941 when Hitler said the National Socialists had no intention of ever leaving the occupied countries, and that "all necessary measures - shooting, desettling, etc., -" should be taken.

Goering persecuted the Jews, particularly after the November 1938 riots, and not only in Germany where he raised the billion ~~dollar~~ mark fine

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as stated elsewhere, but in the conquered territories as well. His own utterances then and in his testimony show this interest was primarily economic - how to get their property and how to force them out of the economic life of Europe. As these countries fell before the German Army, he extended the Reich's anti-Jewish laws to them; the Reichsgesetzblatt for 1939, 1940, and 1941 contains several anti-Jewish decrees signed by Goering. Although their extermination was in Himmler's hands, Goering was far from disinterested or inactive despite his protestations in the witness box. By decree of 31 July 1941 he directed Himmler and Heydrich to bring "about a complete solution of the Jewish question in the German sphere of influence in Europe".

There is nothing to be said in mitigation. For Goering was often, indeed almost always, the moving force, second only to his leader. He was the leading war aggressor, both as political and as military leader; he was the director of the slave labour program and the creator of the oppressive programme against the Jews and other races, at home and abroad. All of these crimes he has frankly admitted. On some specific cases there may be conflict of testimony but in terms of the broad outline, his own admissions are more than sufficiently wide to be conclusive of his guilt. His guilt is unique in its enormity. The record discloses no excuses for this man.

Conclusion

The Tribunal finds the defendant Goering guilty on all four counts of the Indictment.

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HESS

Hess is indicted under all four counts. He joined the Nazi Party in 1920 and participated in the Munich Putsch on November 9, 1923. He was imprisoned with Hitler in the ~~Landesberg~~ Landsberg fortress in 1924 and became Hitler's closest personal confidant, a relationship which lasted until Hess' flight to the British Isles. On April 21, 1933, he was appointed Deputy to the Fuehrer, and on December 1, 1933, was made Reichs Minister without Portfolio. He was appointed Member of the Secret Cabinet Council on February 4, 1938, and a member of the Ministerial Council for the Defense of the Reich on August 30, 1939. In September 1939, Hess was officially announced by Hitler as successor designate to the Fuehrer after Goering. On May 10, 1941, he flew from Germany to Scotland.

Crimes against Peace

As Deputy to the Fuehrer Hess was the top man in the Nazi Party with responsibility for handling all Party matters, and authority to make decisions in Hitler's name on all questions of Party leadership. As Reichs Minister without Portfolio he had the authority to approve all legislation suggested by the different Reichs Ministers before it could be enacted as law. In these positions, Hess was an active supporter of preparations for war. His signature appears on the law of March 16, 1935, establishing compulsory military service. Throughout the years he supported Hitler's policy of vigorous rearmament in many speeches. He told the people that they must sacrifice for armaments, repeating the phrase, "Guns instead of butter". It is true that between 1933 and 1937 Hess made speeches in which he expressed a desire for peace and advocated

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international economic cooperation. But nothing which they contained can alter the fact that of all the defendants none knew better than Hess how determined Hitler was to realise his ambitions, how fanatical and violent a man he was, and how little likely he was to refrain from resort to force, if this was the only way in which he could achieve his aims.

Hess was an informed and willing participant in German aggression against Austria, Czechoslovakia and Poland. He was in touch with the illegal Nazi Party in Austria throughout the entire period between the murder of Dollfuss and the Anschluss, and gave instructions to it during that period. Hess was in Vienna on March 12, 1938, when the German troops moved in; and on March 13, 1938, he signed the law for the Reunion of Austria within the German Reich. A law of June 10, 1939, provided for his participation in the administration of Austria. On July 24, 1938, he made a speech in commemoration of the unsuccessful putsch by Austrian National Socialists which had been attempted four years before, praising the steps leading up to Anschluss and defended the occupation of Austria by Germany.

In the summer of 1938 Hess was in active touch with Henlein, Chief of the Sudeten German Party in Czechoslovakia. On September 27, 1938, at the time of the Munich crisis, he arranged with Keitel to carry out the instructions of Hitler to make the machinery of the Nazi Party available for a secret mobilization. On April 14, 1939, Hess signed a decree setting up the government of the Sudetenland as an integral part of the Reich; and an ordinance of June 10, 1939, provided for his participation in the administration of the Sudetenland. On November 7, 1938, Hess absorbed Henlein's Sudeten German Party into the Nazi Party,

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and made a speech in which he emphasized that Hitler had been prepared to resort to war if this had been necessary to acquire the Sudetenland.

On August 27, 1939, when the attack on Poland had been temporarily postponed in an attempt to induce Great Britain to abandon its guarantee to Poland, Hess publicly praised Hitler's "magnanimous offer" to Poland, and attacked Poland for agitating for war and England for being responsible for Poland's attitude. After the invasion of Poland Hess signed decrees incorporating Danzig and certain Polish territories into the Reich, and setting up the General Government (Poland).

These specific steps which this defendant took in support of Hitler's plans for aggressive action do not indicate the full extent of his responsibility. Until his flight to England, Hess was Hitler's closest personal confidant. Their relationship was such that Hess must have been informed of Hitler's aggressive plans when they came into existence. And he took action to carry out these plans whenever action was necessary.

With him on his flight to England, Hess carried certain peace proposals which he alleged Hitler was prepared to accept. It is significant to note that this flight took place only ten days after the date on which Hitler fixed June 22, 1941, as the time for attacking the Soviet Union. In conversations carried on after his arrival in England Hess wholeheartedly supported all Germany's aggressive actions up to that time, and attempted to justify Germany's action in connection with Austria, Czechoslovakia, Poland, Norway, Denmark, Belgium and the Netherlands. He blamed England and France for the war.

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War Crimes and Crimes against Humanity

There is evidence showing the participation of the Party Chancellery, under Hess, in the distribution of orders connected with the commission of war crimes; that Hess may have had knowledge of even if he did not participate in the crimes that were being committed in the East, and proposed laws discriminating against Jews and Poles; and that he signed decrees forcing certain groups of Poles to accept German citizenship. The Tribunal, however, does not find that the evidence sufficiently connects Hess with these crimes to sustain a finding of guilt.

As previously indicated the Tribunal found, after a full medical examination of and report on the condition of this defendant, that he should be tried, without any postponement of his case. Since that time further motions have been made that he should again be examined. These the Tribunal denied, after having had a report from the prison psychologist. That Hess acts in an abnormal manner, suffers from loss of memory, and has mentally deteriorated during this trial, may be true. But there is nothing to show that he does not realize the nature of the charges against him, or is incapable of defending himself. He was ably represented at the trial by counsel, appointed for that purpose by the Tribunal. There is no suggestion that Hess was not completely sane when the acts charged against him were committed.

Conclusion

The Tribunal finds the defendant Hess guilty on Counts One and Two; and not guilty on Counts Three and Four.

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RIBBENTROP

Ribbentrop is indicted under all four counts. He joined the Nazi Party in 1932. By 1933 he had been made Foreign Policy Adviser to Hitler, and in the same year the representative of the Nazi Party on Foreign Policy. In 1934 he was appointed Delegate for Disarmament Questions, and in 1935 Minister Plenipotentiary at Large, a capacity in which he negotiated the Anglo-German Naval Agreement in 1935 and the Anti-Comintern Pact in 1936. On August 11, 1936, he was appointed Ambassador to England. On February 4, 1938, he succeeded von Neurath as Reichsminister for Foreign Affairs as part of the general reshuffle which accompanied the dismissal of von Fritsch and von Blomberg.

Crimes against Peace

Ribbentrop was not present at the Hoszbach Conference held on November 5, 1937, but on January 2, 1938, while still Ambassador to England, he sent a memorandum to Hitler indicating his opinion that a change in the status quo in the East in the German sense could only be carried out by force and suggesting methods to prevent England and France from intervening in a European war fought to bring about such a change. When Ribbentrop became Foreign Minister Hitler told him that Germany still had four problems to solve, Austria, Sudetenland, Memel and Danzig, and mentioned the possibility of "some sort of a show-down" or "military settlement" for their solution.

On February 12, 1938, Ribbentrop attended the conference between Hitler and Schuschnigg at which Hitler, by threats of invasion, forced Schuschnigg to grant a series of concessions designed to strengthen

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the Nazis in Austria, including the appointment of Seyss-Inquart as Minister of Security and Interior, with control over the Police. Ribbentrop was in London when the occupation of Austria was actually carried out and, on the basis of information supplied him by Goering, informed the British Government that Germany had not presented Austria with an ultimatum, but had intervened in Austria only to prevent civil war. On March 13, 1938, Ribbentrop signed the law incorporating Austria into the German Reich.

Ribbentrop participated in the aggressive plans against Czechoslovakia. Beginning in March 1938, he was in close touch with the Sudeten German Party and gave them instructions which had the effect of keeping the Sudeten German question a live issue which might serve as an excuse for the attack which Germany was planning against Czechoslovakia. In August 1938 he participated in a conference for the purpose of obtaining Hungarian support in the event of a war with Czechoslovakia. After the Munich Pact he continued to bring diplomatic pressure with the object of occupying the remainder of Czechoslovakia. He was instrumental in inducing the Slovaks to proclaim their independence. He was present at the conference of March ~~15~~ 14-15, 1939, at which Hitler, by threats of invasion, compelled President Hacha to consent to the German occupation of Czechoslovakia. After the German troops had marched in, Ribbentrop signed the law establishing a Protectorate over Bohemia and Moravia.

Ribbentrop played a particularly significant role in the diplomatic activity which led up to the attack on Poland. He participated in a conference held on August 12, 1939, for the purpose of obtaining Italian support if the attack should lead to a general European war. Ribbentrop

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discussed the German demands with respect to Danzig and the Polish Corridor with the British Ambassador in the period from August 25 to August 30, 1939, when he knew that the German plans to attack Poland had merely been temporarily postponed in an attempt to induce the British to abandon their guarantee to the Poles. The way in which he carried out these discussions makes it clear that he did not enter them in good faith in an attempt to reach a settlement of the difficulties between Germany and Poland.

Ribbentrop was advised in advance of the attack on Norway and Denmark and of the attack on the Low Countries; and prepared the official Foreign Office memoranda attempting to justify these aggressive actions.

Ribbentrop attended the conference on January ~~19 and~~ 20, 1941, at which Hitler and Mussolini discussed the proposed attack on Greece, and the conference in January 1941, at which Hitler obtained from Antonescu permission for German troops to go through Rumania for this attack. On March 25, 1941, when Yugoslavia adhered to the Axis Tri-partite Pact, Ribbentrop had assured Yugoslavia that Germany would respect its sovereignty and territorial integrity. On March 27, 1941, he attended the meeting, held after the coup d'état in Yugoslavia, at which plans were made to carry out Hitler's announced intention to destroy Yugoslavia.

Ribbentrop attended a conference in May 1941 with Hitler and Antonescu relating to Rumanian participation in the attack on the U.S.S.R. He also consulted with Rosenberg in the preliminary planning for the political exploitation of Soviet territories and in July 1941, after the outbreak of war, urged Japan to attack the Soviet Union.

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War Crimes and Crimes against Humanity

Ribbentrop participated in a meeting of June 6, 1944, at which it was agreed to start a program under which Allied aviators carrying out machine gun attacks ~~on the civilian population~~ should be lynched. In December 1944 Ribbentrop was informed of the plans to murder one of the French Generals held as a prisoner of war and directed his subordinates to see that the details were worked out in such a way as to prevent its detection by the protecting powers. Ribbentrop is also responsible for War Crimes and Crimes against Humanity because of his activities with respect to occupied countries and Axis satellites. The top German official in both Denmark and Vichy France was a Foreign Office representative, and Ribbentrop is therefore responsible for the general economic and political policies put into effect in the occupation of those countries. He urged the Italians to adopt a ruthless occupation policy in Yugoslavia and Greece.

He played an important part in Hitler's "final solution" of the Jewish question. In September 1942 he ordered the German diplomatic representatives accredited to various Axis satellites to hasten the deportation of Jews to the East. In June 1942 the German Ambassador to Vichy requested Laval to turn over 50,000 Jews for deportation to the East. On February 25, 1943, Ribbentrop protested to Mussolini against Italian slowness in deporting Jews from the Italian occupation zone of France. On April 17, 1943, he took part in a conference between Hitler and Horthy on the deportation of Jews from Hungary and informed Horthy that the "Jews must either be exterminated or taken to concentration camps". At the same conference Hitler had likened the Jews to "tuberculosis bacilli" and said if they did not work they were to be shot.

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Ribbentrop's defense to the charges made against him is that Hitler made all the important decisions and that he was such a great admirer and faithful follower of Hitler that he never questioned Hitler's repeated assertions that he wanted peace or the truth of the reasons that Hitler gave in explaining aggressive action. The Tribunal does not consider this explanation to be true. Ribbentrop participated in all of the Nazi aggressions from the occupation of Austria to the invasion of the Soviet Union. Although he was personally concerned with the diplomatic rather than the military aspect of these actions, his diplomatic efforts were so closely connected with war that he could not have remained unaware of the aggressive nature of Hitler's actions. In the administration of territories over which Germany acquired control by illegal invasion Ribbentrop also assisted in carrying out criminal policies particularly those involving the extermination of the Jews. There is abundant evidence, moreover, that Ribbentrop was in complete sympathy with all the main tenets of the National Socialist creed, and that his collaboration with Hitler and with other defendants in the commission of crimes against ~~K~~ peace, war crimes and crimes against humanity was whole-hearted. It was because Hitler's policy and plans coincided with his own ideas that Ribbentrop served him so willingly to the end.

Conclusion

The Tribunal finds that Ribbentrop is guilty on all four ~~c~~counts.

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KEITEL

Keitel is indicted on all four counts. He was Chief of Staff to the then Minister of War von Blomberg from 1935 to 4 February 1938; on that day Hitler took command of the armed forces, making Keitel Chief of the High Command of the Armed Forces. Keitel did not have command authority over the three Wehrmacht branches which enjoyed direct access to the Supreme Commander. OKW was in effect Hitler's military staff.

Crimes against Peace

Keitel attended the Schuschnigg conference in February 1938 with two other generals. Their presence, he admitted, was a "military demonstration", but since he had been appointed OKW Chief just one week before he had not known why he had been summoned. Hitler and Keitel then continued to put pressure on Austria with false rumors, broadcasts and troop manoeuvres. Keitel made the military and other arrangements and Jodl's diary noted "the effect is quick and strong". When Schuschnigg called his plebiscite, Keitel that night briefed Hitler and his generals, and Hitler issued "Case Otto" which Keitel initialed.

On 21 April 1938 Hitler and Keitel considered making use of a possible "incident", such as the assassination of the German Minister at Prague, to preface the attack on Czechoslovakia. Keitel signed many directives and memoranda on "Fall Gruen", including the directive of 30 May containing Hitler's statement: "It is my unalterable decision to smash Czechoslovakia by military action in the near future". After Munich, Keitel initialed Hitler's directive for the attack on Czechoslovakia, and issued two

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supplements. The second supplement said the attack should appear to the outside world as "merely an act of pacification and not a warlike undertaking". The OKW Chief attended Hitler's negotiations with Hacha when the latter surrendered.

Keitel was present on 23 May 1939 when Hitler announced his decision "to attack Poland at the first suitable opportunity". Already he had signed the directive requiring the Wehrmacht to submit its "Fall Weiss" timetable to OKW by 1 May.

The invasion of Norway and Denmark he discussed on 12 December 1939 with Hitler, Jodl and Raeder. By directive of 27 January 1940 the Norway plans were placed under Keitel's "direct and personal guidance". Hitler had said on 23 May 1939 he would ignore the neutrality of Belgium and The Netherlands, and Keitel signed orders for these attacks on 15 October, 20 November, and ~~29~~ 28 November 1939. Orders postponing this attack 17 times until spring 1940 all were signed by Keitel or Jodl.

Formal planning for Greece and Yugoslavia had begun in November 1940. On ~~20 January~~ 18 March 1941 Keitel heard Hitler tell Raeder complete occupation of Greece was a prerequisite to settlement, and also heard Hitler decree on 27 March the destruction of Yugoslavia with "unmerciful harshness".

Keitel testified that he opposed the invasion of the Soviet Union for military reasons, and also because it would constitute a violation of the non-aggression Pact. Nevertheless he initialed "Case Barbarossa", signed by Hitler on 18 December 1940, and attended the OKW discussion with Hitler on 3 February 1941. Keitel's supplement of ~~27~~ 13 March established the relationship between the military and political officers. He issued his timetable for the invasion on ~~1~~ 6 June 1941, and was present at the

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briefing of 14 June when the generals gave their final reports before attack. He appointed Jodl and Warlimont as OKW representatives to Rosenberg on matters concerning the Eastern Territories. On 16 June he directed all army units to carry out the economic directives issued by Goering in the so-called "Green Folder", for the exploitation of Russian territory, food and raw materials.

War Crimes and Crimes against Humanity

On 4 August 1942 Keitel issued a directive that paratroopers were to be turned over to the SD. On 18 October Hitler issued the Commando Order which was carried out in several instances. After Normandy Keitel reaffirmed the order, and later extended it to Allied missions fighting with partisans. He admits he did not believe the order was legal but claims he could not stop Hitler.

When, on ~~16~~ 8 September 1941, OKW issued its ruthless regulations for Soviet POW's, Canaris wrote to Keitel that under international law the SD should have nothing to do with this. On this memorandum in Keitel's handwriting, dated 23 September and initialed by him, is the statement: "The objections arise from the military concept of chivalrous warfare. This is the destruction of an ideology. Therefore I approve and back the measures". Keitel testified that he really agreed with Canaris and argued with Hitler, but lost. The OKW Chief directed the military authorities to cooperate with the Einsatzstab Rosenberg in looting cultural property in occupied territories.

Lahousen testified that Keitel told him on 12 September 1939, while aboard Hitler's headquarters train, that the Polish intelligentsia, nobility and Jews were to be liquidated. On 20 October, Hitler told Keitel the intelligentsia would be prevented from forming a ruling class, the standard

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of living would remain low, and Poland would be used only for labor forces. Keitel does not remember the Lahousen conversation, but admits there was such a policy and that he had protested without effect to Hitler about it.

On 16 September 1941, Keitel ordered that attacks on soldiers in the East should be met by putting to death 50 to 100 Communists for one German soldier, with the comment that human life was less than nothing in the East. On 1 October he ordered military commanders always to have hostages to execute when soldiers were attacked. When Terboven, the Reich Commissioner in Norway, wrote Hitler that Keitel's suggestion that workmen's relatives be held responsible for sabotage, could work only if firing squads were authorized, Keitel wrote on this memorandum: "Yes, that is the best".

On 12 May 1941, five weeks before the invasion of the Soviet Union, OKW urged upon Hitler a directive of OKH that political commissars be liquidated by the Army. Keitel admitted the directive was passed on to field commanders. And on 13 May Keitel signed an order that civilians suspected of offenses against troops should be shot without trial, and that prosecution of German soldiers for offenses against civilians was unnecessary. On 27 July all copies of this directive were ordered destroyed without affecting its validity. Four days previously he had signed another order that legal punishment was inadequate and troops should use terrorism.

On 7 December 1941, as already discussed in this opinion, the so-called "Nacht und Nebel" decree, over Keitel's signature, provided that in occupied territories civilians who had been accused of crimes of resistance against the army of occupation would be tried only if a death sentence was likely;

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otherwise they would be handed to the Gestapo for transportation to Germany.

Keitel directed Russian POW's be used in German war industry. On 8 September 1942 he ordered French, Dutch and Belgian citizens to work on the Atlantic Wall. He was present on 4 January 1944 when Hitler directed Sauckel to obtain four million new workers from occupied territories.

In the face of these documents Keitel does not deny his connection with these acts. Rather, his defense relies on the fact that he is a soldier, and on the doctrine of "superior orders", prohibited by Article 8 as a defense.

There is nothing in mitigation. Superior orders, even to a soldier, cannot be considered in mitigation where crimes as shocking and extensive have been committed consciously, ruthlessly and without military excuse or justification.

Conclusion

The Tribunal finds Keitel guilty on all four counts.

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KALTENBRUNNER

Kaltenbrunner is indicted under Counts One, Three and Four. He joined the Austrian Nazi Party and the SS in 1932. In 1935 he became leader of the SS in Austria. After the Anschluss he was appointed Austrian State Secretary for Security and when this position was abolished in 1941 he was made Higher SS and Police Leader. On January 30, 1943, he was appointed Chief of the Security Police and SD and Head of the Reich Security Head Office (RSHA), a position which had been held by Heydrich until his assassination in June 1942. He held the rank of Obergruppenfuehrer in the SS.

Crimes against Peace

As leader of the SS in Austria Kaltenbrunner was active in the Nazi intrigue against the Schuschnigg Government. On the night of March 11, 1938, after Goering had ordered Austrian National Socialists to seize control of the Austrian Government, 500 Austrian SS men under Kaltenbrunner's command surrounded the Federal Chancellery and a special detachment under the command of his adjutant entered the Federal Chancellery while Seyss-Inquart was negotiating with President Miklas. But there is no evidence connecting Kaltenbrunner with plans to wage aggressive war on any other front. The Anschluss, although it was an aggressive act, is not charged as an aggressive war, and the evidence against Kaltenbrunner under Count One does not, in the opinion of the Tribunal, show his direct participation in any plan to wage such a war.

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War Crimes and Crimes against Humanity

When he became Chief of the Security Police and SD and Head of the RSHA on January 30, 1943, Kaltenbrunner took charge of an organization which included the main offices of the Gestapo, the SD and the Criminal Police. As Chief of the RSHA, Kaltenbrunner had authority to order protective custody to and release from concentration camps. Orders to this effect were normally sent over his signature. Kaltenbrunner was aware of conditions in concentration camps. He had undoubtedly visited Mauthausen and witnesses testified that he had seen prisoners killed by the various methods of execution, hanging, shooting in the back of the neck and gassing, as part of a demonstration. Kaltenbrunner himself ordered the execution of prisoners in those camps and his office was used to transmit to the camps execution orders which originated in Himmler's office. At the end of the war Kaltenbrunner participated in the arrangements for the evacuation of inmates of concentration camps, and the liquidation of many of them, to prevent them from being liberated by the Allied armies.

During the period in which Kaltenbrunner was Head of the RSHA, it was engaged in a widespread programme of War Crimes and Crimes against Humanity. These crimes included the mistreatment and murder of prisoners of war. Einsatz Kommandos operating under the control of the Gestapo were engaged in the screening of Soviet prisoners of war. Jews, commissars and others who were thought to be ideologically hostile to the Nazi system were reported to the RSHA, which had them transferred to a concentration camp and murdered. An RSHA order issued during Kaltenbrunner's regime established the "Bullet Decree", under which certain escaped prisoners of war who were recaptured were taken to Mauthausen

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and shot. The order for the execution of commando troops was extended by the Gestapo to include parachutists while Kaltenbrunner was Chief of the RSHA. An order signed by Kaltenbrunner instructed the Police not to interfere with attacks on bailed out Allied fliers. In December 1944 Kaltenbrunner participated in the murder of one of the French Generals held as a prisoner of war.

During the period in which Kaltenbrunner was Head of the RSHA, the Gestapo and SD in occupied territories continued the murder and ill-treatment of the population, using methods which included torture and confinement in concentration camps, usually under orders to which Kaltenbrunner's name was signed.

The Gestapo was responsible for enforcing a rigid labor discipline on the slave labourers and Kaltenbrunner established a series of labour reformatory camps for this purpose. When the SS embarked on a slave labour programme of its own, the Gestapo was used to obtain the needed workers by sending labourers to concentration camps.

The RSHA played a leading part in the "final solution" of the Jewish question by the extermination of the Jews. A special section under the AMT IV of the RSHA was established to supervise this programme. Under its direction approximately six million Jews were murdered, of which two million were killed by Einsatzgruppen and other units of the Security Police. Kaltenbrunner had been informed of the activities of these Einsatzgruppen when he was a Higher SS and Police Leader, and they continued to function after he had become Chief of the RSHA.

The murder of approximately four million Jews in concentration camps has heretofore been described. This part of the programme was

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also under the supervision of the RSHA when Kaltenbrunner was head of that organization, and special missions of the RSHA scoured the occupied territories and the various Axis satellites arranging for the deportation of Jews to these extermination institutions. Kaltenbrunner was informed of these activities. A letter which he wrote on June 30, 1944, described the shipment to Vienna of 12,000 Jews for that purpose, and directed that all who could not work would have to be kept in readiness for "special action", which meant murder. Kaltenbrunner denied his signature to this letter, as he did on a very large number of orders on which his name was stamped or typed, and, in a few instances, written. It is inconceivable that in matters of such importance his signature could have appeared so many times without his authority.

Kaltenbrunner has claimed that when he took office as Chief of the Security Police and SD and as Head of the RSHA he did so pursuant to an understanding with Himmler under which he was to confine his activities to matters involving foreign intelligence, and not to assume overall control over the activities of the RSHA. He claims that the criminal programme had been started before his assumption of office; that he seldom knew what was going on; and that when he was informed he did what he could to stop them. It is true that he showed a special interest in matters involving foreign intelligence. But he exercised control over the activities of the RSHA; was aware of the crimes it was committing, and was an active participant in many of them.

Conclusion

The Tribunal finds that Kaltenbrunner is not guilty on Count One. He is guilty under Counts Three and Four.

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ROSENBERG

Rosenberg is indicted on all four counts. He joined the Nazi Party in 1919, participated in the Munich Putsch of November 9, 1923, and tried to keep the illegal Nazi Party together while Hitler was in jail. Recognized as the Party's ideologist, he developed and spread Nazi doctrines in the newspapers "Voelkischer Beobachter" and "N S Monatshefte", which he edited, and in the numerous books he wrote. His book "Myth of the Twentieth Century" had a circulation of over a million copies.

In 1930 Rosenberg was elected to the Reichstag and he became the Party's representative for Foreign Affairs. In April 1933 he was made Reichsleiter and ~~Head~~ head of the Office of Foreign Affairs of the NSDAP (The APA). Hitler, in January 1934, appointed Rosenberg his Deputy for the Supervision of the Entire Spiritual and Ideological Training of the NSDAP. In January 1940, he was designated to set up the "Hohe Schule", the Center of National Socialistic Ideological and Educational Research, and he organized the "Einsatzstab Rosenberg" in connection with this task. He was appointed Reich Minister for the Occupied Eastern Territories on July 17, 1941.

Crimes against Peace

As head of the APA Rosenberg was in charge of an organization whose agents were active in Nazi intrigue in all parts of the world. His own reports, for example, claim that the APA was largely responsible for Roumania's joining the Axis. As head of the APA, he played an important role in the preparation and planning of the attack on Norway.

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Rosenberg, together with Raeder, was one of the originators of the plan for attacking Norway. Rosenberg had become interested in Norway as early as June 1939, when he conferred with Quisling. Quisling had pointed out the importance of the Norwegian Coast in the event of a conflict between Germany and Great Britain, and stated his fears that Great Britain might be able to obtain Norwegian assistance. As a result of this conference Rosenberg arranged for Quisling to collaborate closely with the National Socialists and to receive political assistance from the Nazis.

When the war broke out Quisling began to express fear of British intervention in Norway. Rosenberg supported this view, and transmitted to Raeder a plan to use Quisling for a coup in Norway. Rosenberg was instrumental in arranging the conferences in December 1939 between Hitler and Quisling which led to the preparation of the attack on Norway, and at which Hitler promised Quisling financial assistance. After these conferences Hitler assigned to Rosenberg the political exploitation of Norway. Two weeks after Norway was occupied, Hitler told Rosenberg that he had based his decision to attack Norway "on the continuous warnings of Quisling as reported to him by Reichsleiter Rosenberg."

Rosenberg bears a major responsibility for the formulation and execution of occupation policies in the Occupied Eastern Territories. He was informed by Hitler on April 2, 1941, of the coming attack against the Soviet Union, and he agreed to help in the capacity of a "Political Adviser". On April 20, 1941, he was appointed Commissioner for the Central Control of Questions Connected with the East-European Region. In preparing the plans for the occupation, he had numerous conferences with Keitel, Raeder, Goering, Funk, Ribbentrop, and other high Reich authorities. In April and

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May 1941 he prepared several drafts of instructions concerning the setting up of the administration in the Occupied Eastern Territories. On June 20, 1941, two days before the attack on the USSR, he made a speech to his assistants about the problems and policies of occupation. Rosenberg attended Hitler's conference of July 16, 1941, in which policies of administration and occupation were discussed. On July 17, 1941, Hitler appointed Rosenberg Reich Minister for the Occupied Eastern Territories, and publicly charged him with responsibility for civil administration.

War Crimes and Crimes against Humanity

Rosenberg is responsible for a system of organized plunder of both public and private property throughout the invaded countries of Europe. Acting under Hitler's orders of January 1940, to set up the "Hohe Schule", he organized and directed the "Einsatzstab Rosenberg", which plundered museums and libraries, confiscated art treasures and collections, and pillaged private houses. His own reports show the extent of the confiscations. In "Action-M" (Moebel), instituted in December 1941 at Rosenberg's suggestion, 69,619 Jewish homes were plundered in the West, 38,000 of them in Paris alone, and it took 26,984 railroad cars to transport the confiscated furnishings to Germany. As of July 14, 1944, more than 21,903 art objects, including famous paintings and museum pieces, had been seized by the Einsatzstab in the West.

With his appointment as Reich Minister for Occupied Eastern Territories on July 17, 1941, Rosenberg became the supreme authority for those areas. He helped to formulate the policies of Germanization, exploitation, forced labour, extermination of Jews and opponents of Nazi rule, and he set up the administration which carried them out. He took part in the conference of July 16, 1941, in which Hitler stated that they were faced with the

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task of "cutting up the giant cake according to our needs, in order to be able: first, to dominate it, second, to administer it, and third, to exploit it," and indicated that ruthless action was contemplated. Rosenberg accepted his appointment on the following day.

Rosenberg had knowledge of the brutal treatment and terror to which the Eastern people were subjected. He directed that the Hague Rules of Land Warfare were not applicable in the Occupied Eastern Territories. He had knowledge of and took an active part in stripping the Eastern Territories of raw materials and foodstuffs, which were sent to Germany. He stated that feeding the German people was first on the list of claims on the East, and that the Soviet people would suffer thereby. His directives provided for the segregation of Jews, ultimately in Ghettos. His subordinates engaged in mass killings of Jews, and ~~his own Berlin office advised~~ his civil administrators in the East, considered that cleansing the Eastern Occupied Territories of Jews was necessary. In December 1941, he made the suggestion to Hitler that in a case of shooting 100 hostages, Jews only be used. Rosenberg had knowledge of the deportation of labourers from the East, of the methods of "recruiting" and the transportation horrors, and of the treatment Eastern labourers received in the Reich. He gave his civil administrators quotas of labourers to be sent to the Reich, which had to be met by whatever means necessary. His signature of approval appears on the order of June 14, 1944, for the "Heu Aktion", the apprehension of 40,000 to 50,000 youths, aged 10-14, for shipment to the Reich.

Upon occasion Rosenberg objected to the excesses and atrocities committed by his subordinates, notably in the case of Koch, but these

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excesses continued and he stayed in office until the end.

Conclusion

The Tribunal finds that Rosenberg is guilty on all four counts.

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FRANK

Frank is indicted under Counts One, Three and Four. Frank joined the Nazi Party in 1927. He became a member of the Reichstag in 1930, the Bavarian State Minister of Justice in March 1933, and when this position was incorporated into the Reich Government in 1934, Reich Minister without Portfolio. He was made a Reichsleiter of the Nazi Party in charge of Legal Affairs in 1933, and in the same year President of the Academy of German Law. Frank was also given the honorary rank of Obergruppenfuehrer in the SA. In 1942 Frank became involved in a temporary dispute with Himmler as to the type of legal system which should be in effect in Germany. During the same year he was dismissed as Reichsleiter of the Nazi Party and as President of the Academy of German Law.

Crimes against Peace

The evidence has not satisfied the Tribunal that Frank was sufficiently connected with the common plan to wage aggressive war to allow the Tribunal to convict him on Count One.

War Crimes and Crimes Against Humanity

Frank was appointed Chief Civil Administration Officer for occupied Polish territory and, on October 12, 1939, was made Governor General of the occupied Polish territory. On October 3, 1939, he described the policy which he intended to put into effect by stating: "Poland shall be treated ~~as~~ like a colony; the Poles ~~shall be~~ will become the slaves of the Greater German World Empire". The evidence establishes that this occupation policy was based on the complete destruction of Poland as a national

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entity, and a ruthless exploitation of its human and economic resources for the German war effort. All opposition was crushed with the utmost harshness. A reign of terror was instituted, backed by summary police courts which ordered such actions as the public shootings of groups of twenty to two hundred Poles, and the widespread shootings of hostages. The concentration camp system was introduced in the General Government by the establishment of the notorious Treblinka and Maydanek camps. As early as February 6, 1940, Frank gave an indication of the extent of this reign of terror by his cynical comment to a newspaper reporter on von Neurath's poster announcing the execution of the Czech students: "If I wished to order that one should hang up posters about every seven Poles shot, there would not be enough forests in Poland with which to make the paper for these posters". On May 30, 1940, Frank told a police conference that he was taking advantage of the offensive in the West which diverted the attention of the world from Poland to liquidate thousands of Poles who would be likely to resist German domination of Poland, including "the leading representatives of the Polish intelligentsia". Pursuant to these instructions the brutal A.B. action was begun under which the Security Police and SD carried out these exterminations which were only partially subjected to the restraints of legal procedure. On October 2, 1943, Frank issued a decree under which any non-German hindering German construction in the General Government was to be tried by summary courts of the Security Police and SD and sentenced to death.

The economic demands made on the General Government were far in excess of the needs of the army of occupation, and were out of all proportion to the resources of the country. The food raised in Poland

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was shipped to Germany on such a wide scale that the rations of the population of the occupied territories were reduced to the starvation level, and epidemics were widespread. Some steps were taken to provide for the feeding of the agricultural workers who were used to raise the crops, but the requirements of the rest of the population were disregarded. It is undoubtedly true, as argued by counsel for the defense, that some suffering in the General Government was inevitable as a result of the ravages of war and the economic confusion resulting therefrom. But the suffering was increased by a planned policy of economic exploitation.

Frank introduced the deportation of slave labourers to Germany in the very early stages of his administration. On January 25, 1940, he indicated his intention of deporting one million labourers to Germany, suggesting on May 10, 1940, the use of police raids to meet this quota. On August 18, 1942, Frank reported that he had already supplied 800,000 workers for the Reich, and expected to be able to supply 140,000 more before the end of the year.

The persecution of the Jews was immediately begun in the General Government. The area originally contained from 2,500,000 to 3,500,000 Jews. They were forced into ghettos, subjected to discriminatory laws, deprived of the food necessary to avoid starvation, and finally systematically and brutally exterminated. On December 16, 1941, Frank told the Cabinet of the Governor General: "We must annihilate the Jews, wherever we find them and wherever it is possible, in order to maintain there the structure of Reich as a whole". By January 25, 1944, Frank estimated that there were only 100,000 Jews left.

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At the beginning of his testimony, Frank stated that he had a feeling of "terrible guilt" for the atrocities committed in the occupied territories. But his defense was largely devoted to an attempt to prove that he was not in fact responsible; that he ordered only the necessary pacification measures; that the excesses were due to the activities of the police which were not under his control; and that he never even knew of the activities of the concentration camps. It has also been argued that the starvation was due to the aftermath of the war and policies carried out under the Four Year Plan; that the forced labour programme was under the direction of Sauckel; and that the extermination of the Jews was by the police and SS under direct orders from Himmler.

It is undoubtedly true that most of the criminal programme charged against Frank ~~were~~ was put into effect through the police, that Frank had jurisdictional difficulties with Himmler over the control of the police, and that Hitler resolved many of these disputes in favour of Himmler. It therefore may well be true that some of the crimes committed in the General Government were committed without the knowledge of Frank, and even occasionally despite his opposition. It may also be true that some of the criminal policies put into effect in the General Government did not originate with Frank but were carried out pursuant to orders from Germany. But it is also true that Frank was a willing and knowing participant in the use of terrorism in Poland; in the economic exploitation of Poland in a way which led to the death by starvation of a large number of people; in the deportation to Germany as slave labourers of over a million Poles; and in a programme involving the murder of at least three million Jews.

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Conclusion

The Tribunal finds that Frank is not guilty on Count One but guilty under Counts Three and Four.

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FRICK

Frick is indicted on all four counts. Recognized as the chief Nazi administrative specialist and bureaucrat, he was appointed Reichminister of the Interior in Hitler's first cabinet. He retained this important position until August, 1943, when he was appointed Reich Protector of Bohemia and Moravia. In connection with his duties at the center of all internal and domestic administration, he became the Prussian Minister of the Interior, Reich Director of Elections, General Plenipotentiary for the Administration of the Reich, and a member of the Reich Defense Council, the Ministerial Council for Defense of the Reich, and the "Three Man College". As the several countries incorporated into the Reich were overrun, he was placed at the head of the Central Offices for their incorporation.

Though Frick did not officially join the Nazi Party until 1925, he had previously allied himself with Hitler and the National Socialist cause during the Munich Putsch, while he was an official in the Munich Police Department. Elected to the Reichstag in 1924, he became a Reichsleiter as leader of the National Socialist faction in that body.

Crimes against Peace

An avid Nazi, Frick was largely responsible for bringing the German Nation under the complete control of the NSDAP. After Hitler became Reich Chancellor, the new Minister of the Interior immediately began to incorporate local governments under the sovereignty of the Reich. The numerous

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laws he drafted, signed, and administered abolished all opposition parties and prepared the way for the Gestapo and their concentration camps to extinguish all individual opposition. He was largely responsible for the legislation which suppressed the Trade Unions, the Church, the Jews. He performed this task with ruthless efficiency.

Before the date of the Austrian aggression Frick was concerned only with domestic administration within the Reich. The evidence does not show that he participated in any of the conferences at which Hitler outlined his aggressive intentions. Consequently the Tribunal takes the view that Frick was not a member of the common plan or conspiracy to wage aggressive war as defined in this Judgment.

Six months after the seizure of Austria, under the provisions of the Reich Defense Law of September 4, 1938, Frick became General Plenipotentiary for the Administration of the Reich. He was made responsible for war administration, except the military and economic, in the event of Hitler's proclaiming a state of defense. The Reich Ministries of Justice, Education, Religion, and the Office of Spatial Planning were made subordinate to him. Performing his allotted duties, Frick devised an administrative organization in accordance with wartime standards. According to his own statement, this was actually put into operation after Germany decided to adopt a policy of war.

Frick signed the law of March 13, 1938, which united Austria with the Reich, and he was made responsible for its accomplishment. In setting up German administration in Austria, he issued decrees which introduced German law, the Nürnberg Decrees, the Military Service Law, and he provided

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for police security by Himmler.

He also signed the laws incorporating into the Reich the Sudetenland, Memel, Danzig, the Eastern territories (West Prussia and Posen) and Eupen, Malmedy, and Moresnot. He was placed in charge of the actual incorporation, and of the establishment of German administration over these territories. He signed the law establishing the Protectorate of Bohemia and Moravia.

As the head of the Central Offices for Bohemia and Moravia, the Government General, and Norway, he was charged with obtaining close cooperation between the German officials in these occupied countries and the supreme authorities of the Reich. He supplied German civil servants for the administrations in all occupied territories, advising Rosenberg as to their assignment in the Occupied Eastern Territories. He signed the laws appointing Terboven Reich Commissioner to Norway and Seyss-Inquart to Holland.

War Crimes and Crimes against Humanity

Always rabidly anti-Semitic, Frick drafted, signed, and administered many laws designed to eliminate Jews from German life and economy. His work formed the basis of the Nürnberg Decrees, and he was active in enforcing them. Responsible for prohibiting Jews from following various professions, and for confiscating their property, he signed a final decree in 1943, after the mass destruction of Jews in the East, which placed them "outside the law" and handed them over to the Gestapo. These laws paved the way for the "final solution", and were extended by Frick to the Incorporated Territories and to certain of the Occupied Territories.

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While he was Reich Protector of Bohemia and Moravia, thousands of Jews were transferred from the Terezin Ghetto in Czechoslovakia to Auschwitz, where they were killed. He issued a decree providing for special penal laws against Jews and Poles in the Government General.

The police officially fell under the jurisdiction of the Reichminister of the Interior. But Frick actually exercised little control over Himmler and police matters. However, he signed the law appointing Himmler Chief of the German Police, as well as the decrees establishing Gestapo jurisdiction over concentration camps and regulating the execution of orders for protective custody. From the many complaints he received, and from the testimony of witnesses, the Tribunal concludes that he knew of atrocities committed in these camps. With knowledge of Himmler's methods, Frick signed decrees authorizing him to take necessary security measures in certain of the Incorporated Territories. What these "security measures" turned out to be has already been dealt with.

As the Supreme Reich Authority in Bohemia and Moravia, Frick bears general responsibility for the acts of oppression in that territory after 20 August 1943, such as terrorism of the population, slave labour, and the deportation of Jews to the concentration camps for extermination. It is true that Frick's duties as Reich Protector were considerably more limited than those of his predecessor, and that he had no legislative and limited personal executive authority in the Protectorate. Nevertheless, Frick knew full well what the Nazi policies of occupation were in Europe, particularly with respect to Jews, at that time, and by accepting the office of Reich Protector he assumed responsibility for carrying out those policies in Bohemia and Moravia.

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German citizenship in the occupied countries as well as in the Reich came under his jurisdiction while he was Minister of the Interior. Having created a racial register of persons of German extraction, Frick conferred German citizenship on certain groups of citizens of foreign countries. He is responsible for Germanization in Austria, Sudetenland, Memel, Danzig, Eastern Territories (West Prussia and Posen), and Eupen, Malmedy, and Moresnot. He forced on the citizens of these territories, German law, German courts, German education, German police security, and compulsory military service.

During the war nursing homes, hospitals, and asylums in which euthanasia was practiced as described elsewhere in this Judgment, came under Frick's jurisdiction. He had knowledge that insane, sick and aged people, "useless eaters", were being systematically put to death. Complaints ~~xx~~ of these murders reached him, but he did nothing to stop them. A report of the Czechoslovak War Crimes Commission estimated that 275,000 mentally deficient and aged people, for whose welfare he was responsible, fell victim to it.

Conclusion

The Tribunal finds that Frick is not guilty on Count One. He is guilty on Counts Two, Three and Four.

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STREICHER

Streicher is indicted on Counts One and Four. One of the earliest members of the Nazi Party, joining in 1921, he took part in the Munich Putsch. From 1925 to 1940 he was Gauleiter of Franconia. Elected to the Reichstag in 1933, he was an honorary general in the SA. His persecution of the Jews was notorious. He was the publisher of "Der Sturmer", an anti-Semitic weekly newspaper, from 1923 to 1945 and was its editor until 1933.

Crimes against Peace

Streicher was a staunch Nazi and supporter of Hitler's main policies. There is no evidence to show that he was ever within Hitler's inner circle of advisers; nor during his career was he closely connected with the formulation of the policies which led to war. He was never present, for example, at any of the important conferences when Hitler explained his decisions to his leaders. Although he was a Gauleiter there is no evidence to prove that he had knowledge of those policies. In the opinion of the Tribunal, the evidence fails to establish his connection with the conspiracy or common plan to wage aggressive war, as that conspiracy has been elsewhere defined in this Judgment.

Crimes against Humanity

For his twenty-five years of speaking, writing, and preaching hatred of the Jews, Streicher was widely known as "Jew-Baiter Number One". In his speeches and articles, week after week, month after month, he infected the German mind with the virus of anti-Semitism, and incited the

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German people to active persecution. Each issue of "Der Sturmer", which reached a circulation of 600,000 in 1935, was filled with such articles, often lewd and disgusting.

Streicher had charge of the Jewish boycott of April 1, 1933. He advocated the Nurnberg Decrees of 1935. He was responsible for the demolition on August 10, 1938, of the Synagogue in Nurnberg. And on November 10, 1938, he spoke publicly in support of the Jewish pogrom which was taking place at that time.

But it was not only in Germany that this defendant advocated his doctrines. As early as ~~1937~~ 1938 he began to call for the annihilation of the Jewish race. Twenty-three different articles of "Der Sturmer" between 1938 and 1941 were produced in evidence, in which extermination "root and branch" was preached. Typical of his teachings was a leading article in September 1938 which termed the Jew a germ and a pest, not a human being, but "~~a~~ A parasyte, an enemy, an evil-doer, a disseminator of diseases who must be destroyed in the interest of mankind". Other articles urged that only when world Jewry had been annihilated would the Jewish problem have been solved, and predicted that fifty years hence the Jewish graves "will proclaim that this people of murderers and criminals has after all met its deserved fate". Streicher, in February 1940, published a letter from one of "Der Sturmer's" readers which compared Jews with swarms of locusts which must be exterminated completely. Such was the poison Streicher injected into the minds of thousands of Germans which caused them to follow the National Socialist policy of Jewish persecution and extermination. A leading article of "Der Sturmer" in May 1939, shows clearly his aim:

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"A punitive expedition must come against the Jews in Russia. A punitive expedition which will provide the same fate for them that every murderer and criminal must expect. Death sentence and execution. The Jews in Russia must be killed. They must be exterminated root and branch."

As the war in the early stages proved successful in acquiring more and more territory for the Reich, Streicher even intensified his efforts to incite the Germans against the Jews. In the record are twenty-six articles from "Der Sturmer", published between August 1941 and September 1944, twelve by Streicher's own hand, which demanded annihilation and extermination in unequivocal terms. He wrote and published on December 25, 1941:

"If the danger of the reproduction of that curse of God in the Jewish blood is to finally come to an end, then there is only one way; the extermination of that people whose father is the devil."

And in February 1944 his own article stated:

"Whoever does what a Jew does is a scoundrel, a criminal. And he who repeats and wishes to copy him deserves the same fate, annihilation, death."

With knowledge of the extermination of the Jews in the Occupied Eastern Territory, this defendant continued to write and publish his propaganda of death. Testifying in this trial, he vehemently denied any knowledge of mass executions of Jews. But the evidence makes it clear that he continually received current information on the progress of the "final solution". His press photographer was sent to visit the ghettos of the East in the spring of 1943, the time of the destruction of the Warsaw Ghetto. The Jewish newspaper, "Israelitisches Wochenblatt", which Streicher received and read, carried in each issue accounts of Jewish atrocities in the East, and gave figures on the number of Jews who had been deported and killed. For example, issues appearing in the summer and fall of 1942 reported the death of 72,729 Jews

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in Warsaw, 17,542 in Lodz, 18,000 in Croatia, 125,000 in Rumania, 14,000 in Latvia, 85,000 in Yugoslavia, 700,000 in all of Poland. In November 1943 Streicher quoted verbatim an article from the "Israelitisches Wochenblatt" which stated that the Jews had virtually disappeared from Europe, and commented "this is not a Jewish lie". In December 1942, referring to an article in the "London Times" about the atrocities, aiming at extermination, Streicher said that Hitler had given warning that the second World War would lead to the destruction of Jewry. In January 1943 he wrote and published an article which said that Hitler's prophecy was being fulfilled, that world Jewry was being extirpated, and that it was wonderful to know that Hitler was freeing the world of its Jewish tormentors.

In the face of the evidence before the Tribunal it is idle for Streicher to suggest that the solution of the Jewish problem which he favored was strictly limited to the classification of Jews as aliens, and the passing of discriminatory legislation such as the Nurnberg Laws, supplemented if possible by international agreement on the creation of a Jewish State somewhere in the world, to which all Jews should emigrate.

Streicher's incitement to murder and extermination at the time when Jews in the East were being killed under the most horrible conditions clearly constitutes persecution on political and racial grounds in connection with war crimes, as defined by the Charter, and constitutes a crime against humanity.

Conclusion

The Tribunal finds that Streicher is not guilty on Count One, but that he is guilty on Count Four.

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FUNK

Funk is indicted under all four counts. Funk, who had previously been a financial journalist, joined the Nazi Party in 1931, and shortly thereafter became one of Hitler's personal economic advisers. On January 30, 1933, he was made Press Chief in the Reich Government, and on March 1, 1933, became Under Secretary in the Ministry of Propaganda and shortly thereafter a leading figure in the various Nazi organizations which were used to control the press, films, music and publishing houses. He took office as Minister of Economics and Plenipotentiary General for War Economy in early 1938 and as President of the Reichsbank in January 1939. He succeeded Schacht in all three of these positions. He was made a member of the Ministerial Council for the Defense of the Reich in August 1939, and a member of the Central Planning Board in September 1943.

Crimes against Peace

Funk became active in the economic field after the Nazi plans to wage aggressive war had been clearly defined. One of his representatives attended a conference on October 14, 1938, at which Goering announced a gigantic increase in armaments and instructed the Ministry of Economics to increase exports to obtain the necessary exchange. On January 28, 1939, one of Funk's subordinates ~~the Ministry of Economics~~ sent a memorandum to the OKW on the use of prisoners of war to make up labour deficiencies which would arise in case of mobilization. On May 30, 1939, the Under Secretary of the Ministry of Economics attended a meeting at which detailed plans were made for the financing of the war.

On August 25, 1939, Funk wrote a letter to Hitler expressing his

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gratitude that he was able to participate in such world shaking events; that his plans for the "financing of the war", for the control of wage and price conditions and for the strengthening of the Reichsbank had been completed; and that he had inconspicuously transferred into gold all foreign exchange resources available to Germany. On October 14, 1939, after the war had begun, he made a speech in which he stated that the economic and financial departments of Germany working under the Four Year Plan had been engaged in the secret economic preparation for war for over a year.

Funk participated in the economic planning which preceded the attack on the USSR. His deputy held daily conferences with Rosenberg on the economic problems which would arise in the occupation of Soviet territory. Funk himself participated in planning for the printing of ruble notes in Germany prior to the attack to serve as occupation currency in the USSR. After the attack he made a speech in which he described plans he had made for the economic exploitation of the "vast territories of the Soviet Union" which were to be used as a source of raw material for Europe.

Funk was not one of the leading figures in originating the Nazi plans for aggressive war. His activity in the economic sphere was under the supervision of Goering as ~~P~~ plenipotentiary General ~~agent~~ of the Four Year Plan. He did, however, participate in the economic preparation for certain of the aggressive wars, notably those against Poland and the Soviet Union, but his guilt can be adequately dealt with under Count Two of the Indictment.

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War Crimes and Crimes against Humanity

In his capacity as Under Secretary in the Ministry of Propaganda and Vice-Chairman of the Reichs Chamber of Culture, Funk had participated in the early Nazi program of economic discrimination against the Jews. On November 12, 1938, after the pogroms of November, he attended a meeting held under the chairmanship of Goering to discuss the solution of the Jewish problem and proposed a decree providing for the banning of Jews from all business activities, which Goering issued the same day under the authority of the Four Year Plan. Funk has testified that he was shocked at the outbreaks of November 10, but on November 15 he made a speech describing these outbreaks as a "violent explosion of the disgust of the German people, because of criminal Jewish attacks against the German people", and saying that the elimination of the Jews from economic life followed logically their elimination from political life.

In 1942 Funk entered into an agreement with Himmler under which the Reichsbank was to receive certain gold and jewels and currency from the SS and instructed his subordinates, who were to work out the details, not to ask too many questions. As a result of this agreement the SS sent to the Reichsbank the personal belongings taken from the victims who had been exterminated in the concentration camps. The Reichsbank kept the coins and bank notes and sent the jewels, watches and personal belongings to Berlin Municipal Pawn Shops. The gold from the eyeglasses, and gold teeth and fillings was stored in the Reichsbank vaults. Funk has protested that he did not know that the Reichsbank was receiving articles of this kind. The Tribunal is of the opinion that he either knew what was being received or was deliberately closing his eyes to what was being done.

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As Minister of Economics and President of the Reichsbank, Funk participated in the economic exploitation of occupied territories. He was President of the Continental Oil Company which was charged with the exploitation of the oil resources of occupied territories in the East. He was responsible for the seizure of the gold reserves of the Czechoslovakian National Bank and for the liquidation of the Yugoslavian National Bank. On June 6, 1942, his deputy sent a letter to the OKW requesting that funds from the French Occupation Cost Fund be made available for black market purchases. Funk's knowledge of German occupation policies is shown by his presence at the meeting of August 8, 1942, at which Goering addressed the various German occupation chiefs, told them of the products required from their territories, and added: "It makes no difference to me in this connection if you say that your people will starve".

In the fall of 1943, Funk was a member of the Central Planning Board which determined the total number of labourers needed for German industry, and required Sauckel to produce them, usually by deportation from occupied territories. Funk did not appear to be particularly interested in this aspect of the forced labour programme, and usually sent a deputy to attend the meetings, often SS General Ohlendorf, the former Chief of the SD inside of Germany and the former Commander of Einsatzgruppe D. But Funk was aware that the Board of which he was a member was demanding the importation of slave labourers, and allocating them to the various industries under its control.

As President of the Reichsbank, Funk was also indirectly involved in the utilization of concentration camp labour. Under his direction

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the Reichsbank set up a revolving fund of 12,000,000 Reichsmarks to the credit of the SS for the construction of factories to use concentration camp labourers.

In spite of the fact that he occupied important official positions, Funk was never a dominant figure in the various programmes in which he participated. This is a mitigating fact of which the Tribunal takes notice.

Conclusion

The Tribunal finds that Funk is not guilty on Count One but is guilty under Counts Two, Three and Four.

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SCHACHT

Schacht is indicted under Counts One and Two of the Indictment. Schacht served as Commissioner of Currency and President of the Reichsbank from 1923 to 1930; was reappointed President of the bank on March 17, 1933; Minister of Economics in August 1934; and Plenipotentiary General for War Economy in May 1935. He resigned from these two positions in November 1937, and was appointed Minister without Portfolio. He was re-appointed as President of the Reichsbank for a one-year term on March 16, 1937, and for a four-year term on March ~~16~~ 9 1938, but was dismissed on January 20, 1939. He was dismissed as Minister without Portfolio on January 22, 1943.

Crimes against Peace

Schacht was an active supporter of the Nazi Party before its accession to power on January 30, 1933, and supported the appointment of Hitler to the post of Chancellor. After that date he played an important role in the vigorous rearmament program which was adopted, using the facilities of the Reichsbank to the fullest extent in the German rearmament effort. The Reichsbank, in its traditional capacity as financial agent for the German Government floated long-term Government loans, the proceeds of which were used for rearmament. He devised a system under which five year notes, known as M.E.F.O. bills, guaranteed by the Reichsbank and backed, in effect, by nothing more than its position as a bank of issue, were used to obtain large sums for rearmament from the short-term money market. As Minister of Economics and as Plenipotentiary General for War Economy he was active in organizing the

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German economy for war. He made detailed plans for industrial mobilization and the coordination of the Army with industry in the event of war. He was particularly concerned with shortages of raw materials and started a scheme of stockpiling, and a system of exchange control designed to prevent Germany's weak foreign exchange position from hindering the acquisition abroad of raw materials needed for rearmament. On May 3, 1935, he sent a memorandum to Hitler stating that "the accomplishment of the armament program with speed and in quantity is the problem of German politics, that everything else therefore should be subordinated to this purpose".

Schacht, by April 1936, began to lose his influence as the central figure in the German rearmament effort when Goering was appointed Coordinator for Raw Materials and Foreign Exchange. Goering advocated a greatly expanded programme for the production of synthetic raw materials which was opposed by Schacht on the ground that the resulting financial strain might involve inflation. The influence of Schacht suffered further when on October 16, 1936, Goering was appointed Plenipotentiary for the Four Year Plan with the task of putting "the ~~whole~~ entire economy ~~on a war footing~~ in a state of readiness for war" within four years". Schacht had opposed the announcement of this plan and the appointment of Goering to head it, and it is clear that Hitler's action represented a decision that Schacht's economic policies were too conservative for the drastic rearmament policy which Hitler wanted to put into effect.

After Goering's appointment, Schacht and Goering promptly became embroiled in a series of disputes. Although there was an element of personal controversy running through these disputes, Schacht disagreed

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with Goering on certain basic policy issues. Schacht, on financial grounds, advocated a retrenchment in the rearmament programme, opposed as uneconomical much of the proposed expansion of production facilities, particularly for synthetics, urged a drastic tightening on government credit and a cautious policy in dealing with Germany's foreign exchange reserves. As a result of this dispute and of a bitter argument in which Hitler accused Schacht of upsetting his plans by his financial methods, Schacht went on leave of absence from the Ministry of Economics on September 5, 1937, and resigned as Minister of Economics and as Plenipotentiary General for War Economy on November 16, 1937.

As President of the Reichsbank, Schacht was still involved in disputes. Throughout 1938 the Reichsbank continued to function as the financial agent for the German Government in floating long-term loans to finance armaments. But on March 31, 1938, Schacht discontinued the practice of floating short-term notes guaranteed by the Reichsbank for armament expenditures. At the end of 1938, in an attempt to regain control of fiscal policy through the Reichsbank, Schacht refused an urgent request of the Reichsminister of Finance for a special credit to pay the salaries of civil servants which were not covered by existing funds. On January 2, 1939, Schacht held a conference with Hitler at which he urged him to reduce expenditures for armaments. On January 7, 1939, Schacht submitted to Hitler a report signed by the Directors of the Reichsbank which urged a drastic curtailment of armament expenditures and a balanced budget as the only method of preventing inflation. On January 19, Hitler dismissed Schacht as President of the Reichsbank. On January 22, 1943, Hitler dismissed Schacht as Reichs Minister without

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Portfolio because of his "whole attitude during the present fateful fight of the German nation". On July 23, 1944, Schacht was arrested by the Gestapo and confined in a concentration camp until the end of the war.

It is clear that Schacht was a central figure in Germany's rearmament program, and the steps which he took, particularly in the early days of the Nazi regime, were responsible for Nazi Germany's rapid rise as a military power. But rearmament of itself is not criminal under the Charter. To be a crime against peace under Article 6 of the Charter it must be shown that Schacht carried out this rearmament as part of the Nazi plans to wage aggressive wars.

Schacht has contended that he participated in the rearmament program only because he wanted to build up a strong and independent Germany which would carry out a foreign policy which would command respect on an equal basis with other European countries; that when he discovered that the Nazis were rearming for aggressive purposes he attempted to slow down the speed of rearmament; and that after the dismissal of von Fritsch and von Blomberg he participated in plans to get rid of Hitler, first by deposing him and later by assassination.

Schacht, as early as 1936, began to advocate a limitation of the re-armament programme for financial reasons. Had the policies advocated by him been put into effect Germany would not have been prepared for a general European war. Insistence on his policies led to his eventual dismissal from all positions of economic significance in Germany. On the other hand, Schacht, with his intimate knowledge of German finance, was in a peculiarly good position to understand the true significance of Hitler's frantic re-armament, and to realize that the economic policy adopted was consistent

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only with war as its object.

Moreover Schacht continued to participate in German economic life and even, in a minor way, in some of the early Nazi aggressions. Prior to the occupation of Austria he set a rate of exchange between the mark and the schilling. After the occupation of Austria he arranged for the incorporation of the Austrian National Bank into the Reichsbank and made a violently pro-Nazi speech in which he stated that the Reichsbank would always be Nazi as long as he was connected with it, praised Hitler, defended the occupation of Austria, scoffed at objections to the way it was carried out, and ended with "to our Fuehrer a triple 'Sieg Heil'." He has not contended that this speech did not represent his state of mind at the time. After the occupation of the Sudetenland, he arranged for currency conversion and for the incorporation into the Reichsbank of local Czech banks of issue. On November 29, 1938, he made a speech in which he pointed with pride to his economic policy which had created the high degree of German armament, and added that this armament had made Germany's foreign policy possible.

Schacht was not involved in the planning of any of the specific wars of aggression charged in Count Two. His participation in the occupation of Austria and the Sudetenland (neither of which are charged as aggressive wars) was on such a limited basis that it does not amount to participation in the common plan charged in Count One. He was clearly not one of the inner circle around Hitler which was most closely involved with this common plan. He was regarded by this group with undisguised hostility. The testimony of Speer shows that Schacht's arrest on July 23, 1944, was based as much on Hitler's enmity towards Schacht growing out of his attitude

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before the war as it was on suspicion of his complicity in the bomb plot. The case against Schacht therefore depends on the inference that Schacht did in fact know of the Nazi aggressive plans.

On this all important question evidence has been given for the prosecution, and a considerable volume of evidence for the defense. The Tribunal has considered the whole of this evidence with great care, and comes to the conclusion that this necessary inference has not been established beyond a reasonable doubt.

Conclusion

The Tribunal finds that Schacht is not guilty on this Indictment, and directs that he shall be discharged by the Marshal, when the Tribunal presently adjourns.

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DOENITZ

Doenitz is indicted on Counts One, Two and Three. In 1935 he took command of the first U-Boat flotilla commissioned since 1918, became in 1936 commander of the submarine arm, was made Vice-Admiral in 1940, Admiral in 1942, and on January 30, 1943 Commander-in-Chief of the German Navy. On 1 May 1945 he became the Head of State, succeeding Hitler.

Crimes against Peace

Although Doenitz built and trained the German U-Boat arm, the evidence does not show he was privy to the conspiracy to wage aggressive wars or that he prepared and initiated such wars. He was a line officer performing strictly tactical duties. He was not present at the important conferences when plans for aggressive wars were announced, and there is no evidence he was informed about the decisions reached there. Doenitz did, however, wage aggressive war within the meaning of that word as used by the Charter. Submarine warfare which began immediately upon the outbreak of war, was fully coordinated with the other branches of the Wehrmacht. It is clear that his U-Boats, few in number at the time, were fully prepared to wage war.

It is true that until his appointment in January 1943 as Commander-in-Chief he was not an "Oberbefehlshaber". But this statement underestimates the importance of Doenitz' position. He was no mere Army or division commander. The U-Boat arm was the principal part of the German fleet and Doenitz was its leader. The High Seas fleet made a few minor, if spectacular, raids during the early years of the war but the real damage to the

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enemy was done almost exclusively by his submarines as the millions of tons of allied and neutral shipping sunk will testify. Doenitz was solely in charge of this warfare. The Naval War Command reserved for itself only the decision as to the number of submarines in each area. In the invasion of Norway, for example, he made recommendations in October 1939 as to submarine bases, which he claims were no more than a staff study, and in March and April 1940 he made out the operational orders for the supporting U-Boats, as discussed elsewhere in this Judgment.

That his importance to the German war effort was so regarded is eloquently proved by Raeder's recommendation of Doenitz as his successor and his appointment by Hitler on 30 January 1943 as Commander-in-Chief of the Navy. Hitler too knew that submarine warfare was the essential part of Germany's naval warfare.

From January 1943, Doenitz was consulted almost continuously by Hitler. The evidence was that they conferred on naval problems about 120 times during the course of the war.

As late as April 1945 when he admits he knew the struggle was hopeless, Doenitz as its Commander-in-Chief urged the Navy to continue its fight. On 1 May 1945 he became the Head of State and as such ordered the Wehrmacht to continue its war in the East, until capitulation on 9 May 1945. Doenitz explained that his reason for these orders was to insure that the German civilian population might be evacuated and the Army might make an orderly retreat from the East.

In the view of the Tribunal, the evidence shows that Doenitz was active in waging aggressive war.

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War Crimes

Doenitz is charged with waging unrestricted submarine warfare contrary to the Naval Protocol of 1936, to which Germany acceded, and which reaffirmed the rules of submarine warfare laid down in the London Naval Agreement of 1930.

The prosecution has submitted that on 3 September 1939 the German U-Boat arm began to wage unrestricted submarine warfare upon all merchant ships, whether enemy or neutral, cynically disregarding the Protocol; and that a calculated effort was made throughout the war to disguise this practice by making hypocritical references to international law and supposed violations by the Allies.

Doenitz insists that at all times the Navy remained within the confines of international law and of the Protocol. He testified that when the war began, the guide to submarine warfare was the German Prize Ordinance taken almost literally from the Protocol, that pursuant to the German view, he ordered submarines to attack all merchant ships in convoy, and all that refused to stop or used their radio upon sighting a submarine. When his reports indicated that British merchant ships were being used to give information by wireless, were being armed and were attacking submarines on sight, he ordered his submarines on 17 October 1939 to attack all enemy merchant ships without warning on the ground that resistance was to be expected. Orders already had been issued on 21 September 1939 to attack all ships, including neutrals, sailing at night without lights in the English Channel.

On 24 November 1939, the German Government issued a warning to neutral shipping that, owing to the frequent engagements taking place in

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the waters around the British Isles and the French Coast between U-Boats and Allied merchant ships which were armed and had instructions to use those arms as well as to ram U-Boats, the safety of neutral ships in those waters could no longer be taken for granted. On the first of January, 1940, the German U-Boat command, acting on the instructions of Hitler, ordered U-Boats to attack all Greek merchant ships in the zone surrounding the British Isles which was banned by the United States to its own ships and also merchant ships of every nationality in the limited area of the Bristol Channel. Five days later a further order was given to U-Boats to "make immediately unrestricted use of weapons against all ships" in an area of the North Sea, the limits of which were defined. Finally on the 18th of January, 1940, U-Boats were authorized to sink without warning, all ships "in those waters near the enemy coast in which the use of mines can be pretended". Exceptions were to be made in the cases of United States, Italian, Japanese and Soviet ships.

Shortly after the outbreak of war the British Admiralty, in accordance with its Handbook of instructions of 1938 to the merchant navy, armed its merchant vessels, in many cases convoyed them with armed escort, gave orders to send position reports upon sighting submarines, thus integrating merchant vessels into the warning network of naval intelligence. On the first October, 1939, the British Admiralty announced British merchant ships had been ordered to ram U-Boats if possible.

In the actual circumstances of this case, the Tribunal is not prepared to hold Doenitz guilty for his conduct of submarine warfare against British armed merchant ships.

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However, the proclamation of operational zones and sinking of neutral merchant vessels which enter those zones presents a different question. This practice was employed in the War of 1914-1918 by Germany and adopted in retaliation by Great Britain. The Washington Conference of 1922, the London Naval Agreement of 1930 and the Protocol of 1936 were entered into with full knowledge that such zones had been employed in that war. Yet the Protocol made no exception for operational zones. The order of Doenitz to sink neutral ships without warning when found within these zones was, in the opinion of the Tribunal, therefore a violation of the Protocol.

It is also asserted that the German U-Boat arm not only did not carry out the warning and rescue provisions of the Protocol but that Doenitz deliberately ordered the killing of survivors of shipwrecked vessels, whether enemy or neutral. The prosecution has introduced much evidence surrounding two orders of Doenitz, War Order No. 154, issued in 1939, and the so-called "Laconia" order of 1942. The defense argues that these orders and the evidence supporting them do not show such a policy and introduced much evidence to the contrary. The Tribunal is of the opinion that the evidence does not establish with the certainty required that Doenitz deliberately ordered the killing of shipwrecked survivors. The orders were undoubtedly ambiguous, and deserve the strongest censure.

The evidence further shows that the rescue provisions were not carried out and that the defendant ordered that they should not be carried out. The argument of the defense is that the security of the submarine is, as the first rule of the Sea, paramount to rescue and that the development

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of aircraft made rescue impossible. This may be so, but the Protocol is explicit. If the commander cannot rescue, then under its terms he cannot sink a merchant vessel and should allow it to pass harmless before his periscope. These orders, then, prove Doenitz is guilty of a violation of the Protocol.

In view of all of the facts proved and in particular of an order of the British Admiralty announced on the 8th of May 1940 that all vessels should be sunk at night in the Skagerrak, and the answers to interrogatories by Admiral Nimitz that unrestricted submarine warfare was carried on in the Pacific Ocean by the United States from the first day that nation entered the war, the sentence of Doenitz is not assessed on the ground of his breaches of the international law of submarine warfare.

Doenitz was also charged with responsibility for Hitler's Commando Order of 18 October 1942. Doenitz admitted he received and knew of the order when he was Flag Officer of U-Boats, but disclaimed responsibility. He points out that the order by its express terms excluded men captured in naval warfare, that the Navy had no territorial commands on land, and that submarine commanders would never encounter commandos.

In one instance, when he was Commander-in-Chief of the Navy, in 1943, the members of the crew of an allied motor torpedo boat were captured by German Naval Forces. They were interrogated for intelligence purposes on behalf of the local admiral, and then turned over by his order to the SD and shot. Doenitz said that if they were captured by the Navy their execution was a violation of the commando order, that the execution was not announced in the Wehrmacht communique, and that he was never informed of the incident. He pointed out that the admiral in question was not in his chain of command,

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but was subordinate to the army general in command of the Norway occupation. But Doenitz permitted the order to remain in full force when he became commander-in-chief, and to that extent he is responsible.

Doenitz in a conference of 11 December 1944 said "12,000 concentration camp prisoners will be employed in the shipyards as additional labor". At this time he had no jurisdiction over shipyard construction, and claims that this was merely a suggestion at the meeting that the responsible officials do something about producing ships, that he took no steps to get these workers since it was not a matter for his jurisdiction and does not know whether they ever were procured. He admits he knew of concentration camps. A man in his position must necessarily have known that citizens of occupied countries in large numbers were confined in the concentration camps.

In 1945, Hitler requested the opinion of ~~Keitel~~ Jodl and Doenitz whether the Geneva Convention should be denounced. The notes of the meeting between the two military leaders on 20 February 1945 show that Doenitz expressed his view that the disadvantages of such an action outweighed the advantages. The summary of Doenitz' attitude shown in the notes taken by an officer, included the following sentence:

> "It would be better to carry out the measures considered necessary without warning and at all costs to save face with the outer world."

The prosecution insisted that "the measures" referred to meant the Convention should not be denounced, but should be broken at will. The defense explanation is that Hitler wanted to break the Convention for two reasons: to take away from German troops the protection of the Convention

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thus preventing them from continuing to surrender in large groups to the British and Americans; and also to permit reprisals against Allied prisoners of war because of Allied bombing raids. Doenitz claims that what he meant by "measures" were disciplinary measures against German troops to prevent them from surrendering, and had no reference to measures against the Allies; that this was merely a suggestion, and that in any event no such measures were ever taken, either against Allies or Germans. The Tribunal, however, does not believe this explanation. The Geneva Convention was not, however, denounced by Germany. The defense has introduced several affidavits to prove that British naval prisoners of war in camps under Doenitz' jurisdiction were treated strictly according to the Convention, and the Tribunal takes this fact into consideration, and the Tribunal regards this as a mitigating circumstance.

Conclusion

The Tribunal finds Doenitz is not guilty on Count One of the Indictment, guilty on Counts Two and Three.

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RAEDER

Raeder is indicted on Counts One, Two and Three. In 1928 he became Chief of Naval Command and in 1935 Oberbefehlshaber der Kriegsmarine (OKM); in 1939 Hitler made him Gross-Admiral. He was a member of the Reich Defense Council. On 30 January 1943, Doenitz replaced him at his own request, and he became Admiral Inspector of the Navy, a nominal title.

Crimes against Peace

In the ~~18~~ 15 years he commanded it, Raeder built and directed the German Navy; he accepts full responsibility until retirement in 1943. He admits the Navy violated the Versailles Treaty, insisting it was "a matter of honor for every man" to do so, and alleges that the violations were for the most part minor, and Germany built less than her allowable strength. These violations, as well as those of the Anglo-German Naval Agreement of 1935, have already been discussed elsewhere in this ~~opinion~~ Judgment.

Raeder received the directive of ~~25~~ 24 June 1937 from von Blomberg requiring special preparations for war against Austria. He was one of the five leaders present at the Hoszbach Conference of 5 November 1937. He claims Hitler merely wished by this conference to spur the Army to faster rearmament, insists he believed the questions of Austria and Czechoslovakia would be settled peacefully, as they were, and points to the new naval treaty with England which had just been signed. He received no orders to speed construction of U-Boats, indicating that Hitler was not planning war.

Raeder received directives on "Fall Gruen" and the directives on "Fall Weiss" beginning with that of 3 April 1939; the latter directed the

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Navy to support the Army by intervention from the sea. He was also one of the few chief leaders present at the meeting of 23 May 1939. He attended the Obersalzburg briefing of ~~23~~ 22 August 1939.

The conception of the invasion of Norway first arose in the mind of Raeder and not that of Hitler. Despite Hitler's desire, as shown by his directive of October 1939, to keep Scandinavia neutral, the Navy examined the advantages of naval bases there as early as October. Admiral Karls originally suggested to Raeder the desirable aspects of bases in Norway. A questionnaire, dated 3 October 1939, which sought comments on the desirability of such bases, was circulated within SKL. On 10 October Raeder discussed the matter with Hitler; his War Diary entry for that day says Hitler intended "to give the matter consideration". A few ~~days~~ months later Hitler talked to Raeder, Quisling, Keitel and Jodl; OKW began its planning and the Naval War Staff worked with OKW staff officers. Raeder received Keitel's directive for Norway on 27 January 1940 and the subsequent directive of 1 March, signed by Hitler.

Raeder defends his actions on the ground it was a move to forestall the British. It is not necessary again to discuss this defense, which ~~we~~ have heretofore been treated in some detail, concluding that Germany's invasion of Norway and Denmark was aggressive war. In a letter to the Navy, Raeder said: "The operations of the Navy in the occupation of Norway will for all time remain the great contribution of the Navy to this war".

Raeder received the directives, including the innumerable postponements, for the attack in the West. In a meeting of 18 March 1941 with Hitler he urged the occupation of all Greece. He claims this was only after the British had landed and Hitler had ordered the attack, and points

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out the Navy had no interest in Greece. He received Hitler's directive on Yugoslavia.

Raeder endeavored to dissuade Hitler from embarking upon the invasion of the USSR. In September 1940 he urged on Hitler an aggressive Mediterranean policy as an alternative to an attack on Russia. On 14 November 1940 he urged the war against England "as our main enemy" and that submarine and naval air force construction be continued. He voiced "serious objections against the Russian campaign before the defeat of England", according to notes of the German Naval War Staff. He claims his objections were based on the violation of the Non-aggression Pact as well as strategy. But once the decision had been made, he gave permission six days before the invasion of the Soviet Union to attack Russian submarines in the Baltic Sea within a specified warning area and defends this action because these submarines were "snooping" on German activities.

It is clear from this evidence that Raeder participated in the planning and waging of aggressive war.

War Crimes

Raeder is charged with war crimes on the high seas. The "Athenia", an unarmed British passenger liner, was sunk on 3 September 1939, while outward bound to America. The Germans two months later charged that Mr. Churchill deliberately sank the "Athenia" to encourage American hostility to Germany. In fact, it was sunk by the German U-Boat 30. Raeder claims that an inexperienced U-Boat commander sank it in mistake for an armed merchant cruiser, that this was not known until the U-30 returned several weeks after the German denial and that Hitler then directed the Navy and

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Foreign Office to continue denying it. Raeder denied knowledge of the propaganda campaign attacking Mr. Churchill.

The most serious charge against Raeder is that he carried out unrestricted submarine warfare, including sinking of unarmed merchant ships, of neutrals, non-rescue and machine-gunning of survivors, contrary to the London Protocol of 1936. The Tribunal makes the same finding on Raeder on this charge as it did as to Doenitz, which has already been announced, ~~up~~ until 30 January 1943 when Raeder retired.

The Commando Order of 18 October 1942 which expressly did not apply to naval warfare, was transmitted by the Naval War Staff to the lower naval commanders with the direction it should be distributed orally by flotilla leaders and section commanders to their subordinates. Two commandos were put to death by the Navy, and not the SD, at Bordeaux on 10 December 1942. The comment of the Naval War Staff was that this was "in accordance with the Fuehrer's special order, but is nevertheless something new in international law, since the soldiers were in uniform". Raeder admits he passed the order down through the chain of command, and he did not object to Hitler.

Conclusion

The Tribunal finds that Raeder is guilty on Counts One, Two, and Three.

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VON SCHIRACH

Von Schirach is indicted under Counts One and Four. He joined the Nazi Party and the SA in 1925. In 1929 he became the Leader of the National Socialist Students Union. In 1931 he was made Reichs Youth Leader of the Nazi Party with control over all Nazi youth organizations including the Hitler Jugend. In 1933, after the Nazis had obtained control of the Government, von Schirach was made Leader of Youth in the German Reich, originally a position within the Ministry of the Interior but, after December 1, 1936, an office in the Reich Cabinet. In 1940, von Schirach resigned as head of the Hitler Jugend and Leader of Youth in the German Reich, but retained his position as Reichsleiter with control over Youth Education. In 1940 he was appointed Gauleiter of Vienna, Reichs Governor of Vienna, and Reichs Defense Commissioner for that territory.

Crimes against Peace

After the Nazis had come to power von Schirach, utilizing both physical violence and official pressure, either drove out of existence or took over all youth groups which competed with the Hitler Jugend. A Hitler decree of December 1, 1936, incorporated all German youth within the Hitler Jugend. By the time formal conscription was introduced in 1940, 97% of those eligible were already members.

Von Schirach used the Hitler Jugend to educate German Youth "in the spirit of National Socialism" and subjected them to an intensive programme of Nazi propaganda. He established the Hitler Jugend as a source of replacements for the Nazi Party formations. In October 1938 he entered

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into an arrangement with Himmler under which members of the Hitler Jugend who met SS standards would be considered as the primary source of replacements for the SS.

Von Schirach also used the Hitler Jugend for premilitary training. Special units were set up whose primary purpose was training specialists for the various branches of the service. On August 11, 1939, he entered into an agreement with Keitel under which the Hitler Jugend agreed to carry out its premilitary activities under standards laid down by the Wehrmacht and the Wehrmacht agreed to train 30,000 Hitler Jugend instructors each year. The Hitler Jugend placed particular emphasis on the military spirit and its training program stressed the importance of return of the colonies, the necessity for Lebensraum and the noble destiny of German youth to die for Hitler.

Despite the warlike nature of the activities of the Hitler Jugend, however, it does not appear that von Schirach was involved in the development of Hitler's plan for territorial expansion by means of aggressive war, or that he participated in the planning or preparation of any of the wars of aggression.

Crimes against Humanity

In July 1940, von Schirach was appointed Gauleiter of Vienna. At the same time he was appointed Reichs Governor for Vienna and Reichs Defense Commissioner, originally for Military District 17 including the Gaus of Vienna, Upper Danube and Lower Danube and, after November 17, 1942, for the Gau of Vienna alone. As Reichs Defense Commissioner, he had control of the civilian war economy. As Reichs Governor he was head of the municipal administration of the city of Vienna and, under the supervision

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of the Minister of the Interior, in charge of the governmental administration of the Reich in Vienna.

Von Schirach is not charged with the commission of War Crimes in Vienna, only with the commission of Crimes against Humanity. As has already been seen, Austria was occupied pursuant to a common plan of aggression. Its occupation is, therefore, a "crime within the jurisdiction of the Tribunal", as that term is used in Article 6(c) of the Charter. As a result "murder, extermination, enslavement, deportation and other inhumane acts" and "persecutions on political, racial or religious grounds" in connection with this occupation constitute a Crime against Humanity under that Article.

As Gauleiter of Vienna, von Schirach came under the Sauckel decree dated April 6, 1942, making the Gauleiters Sauckel's plenipotentiaries for manpower with authority to supervise the utilization and treatment of manpower within their Gaus. Sauckel's directives provided that the forced labourers were to be fed, sheltered and treated so as to exploit them to the highest possible degree at the lowest possible expense.

When von Schirach became Gauleiter of Vienna the deportation of the Jews had already been begun, and only 60,000 out of Vienna's original 190,000 Jews remained. On October 2, 1940, he attended a conference at Hitler's office and told Frank that he had 50,000 Jews in Vienna which the General Government would have to take over from him. On December 3, 1940, von Schirach received a letter from Lammers stating that after the receipt of the reports made by von Schirach, Hitler had decided to deport the 60,000 Jews still remaining in Vienna to the General Government because of the housing shortage in Vienna. The deportation of the Jews from Vienna

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was then begun and continued until the early fall of 1942. On September 15, 1942 von Schirach made a speech in which he defended his action in having driven "tens of thousands upon tens of thousands of Jews into the Ghetto of the East" as "contributing to European culture".

While the Jews were being deported from Vienna reports, addressed to him in his official capacity, were received in von Schirach's office from the office of the Chief of the Security Police and SD which contained a description of the activities of Einsatzgruppen in exterminating Jews. Many of these reports were initialed by one of von Schirach's principal deputies. On June 30, 1944, von Schirach's office also received a letter from Kaltenbrunner informing him that a shipment of 12,000 Jews was on its way to Vienna for essential war work and that all those who were incapable of work would have to be kept in readiness for "special action".

The Tribunal finds that von Schirach, while he did not originate the policy of deporting Jews from Vienna, participated in this deportation after he had become Gauleiter of Vienna. He knew that the best the Jews could hope for was a miserable existence in the Ghettoes of the East. Bulletins describing the Jewish extermination were in his office.

While Gauleiter of Vienna, von Schirach continued to function as Reichsleiter for Youth Education and in this capacity he was informed of the Hitler Jugend's participation in the plan put into effect in the fall of 1944 under which 50,000 young people between the ages of 10 and 20 were evacuated into Germany from areas recaptured by the Soviet forces and used as apprentices in German industry and as auxiliaries in units of the German armed forces. In the summer of 1942, von Schirach telegraphed

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Bormann urging that a bombing attack on an English cultural town be carried out in retaliation for the assassination of Heydrich which, he claimed, had been planned by the British.

Conclusion

The Tribunal finds that von Schirach is not guilty on Count One. He is guilty under Count Four.

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SAUCKEL

Sauckel is indicted under all four counts. Sauckel joined the Nazi Party in 1923, and became Gauleiter of Thuringia in 1927. He was a member of the Thuringian legislature from 1927 to 1933, was appointed Reichsstatthalter for Thuringia in 1932, and Thuringian Minister of the Interior and Head of the Thuringian State Ministry in May 1933. He became a member of the Reichstag in 1933. He held the formal rank of Obergruppenfuehrer in both the SA and the SS.

Crimes against Peace

The evidence has not satisfied the Tribunal that Sauckel was sufficiently connected with the common plan to wage aggressive war or sufficiently involved in the planning or waging of the aggressive wars to allow the Tribunal to convict him on Counts One or Two.

War Crimes and Crimes against Humanity

On March 21, 1942, Hitler appointed Sauckel Plenipotentiary General for the Utilization of Labor, with authority to put under uniform control "the utilization of all available manpower, including that of workers recruited abroad and of prisoners of war". Sauckel was instructed to operate within the fabric of the Four Year Plan, and on March 27, 1942, Goering issued a decree as Commissioner for the Four Year Plan transferring his manpower sections to Sauckel. On September 30, 1942, Hitler gave Sauckel authority to appoint Commissioners in the various occupied territories, and "to take all necessary measures for the enforcement" of the decree of March 21, 1942.

Under the authority which he obtained by these decrees, Sauckel set up a program for the mobilization of the labor resources available to the Reich.

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One of the important parts of this mobilization was the systematic exploitation, by force, of the labor resources of the occupied territories. Shortly after Sauckel had taken office, he had the governing authorities in the various occupied territories issue decrees, establishing compulsory labor service in Germany. Under the authority of these decrees Sauckel's Commissioners, backed up by the police authorities of the occupied territories, obtained and sent to Germany the laborers which were necessary to fill the quotas given them by Sauckel. He described so-called "voluntary" recruiting by "a whole batch of male and female agents just as was done in the olden times for shanghaiing". That real voluntary recruiting was the exception rather than the rule is shown by Sauckel's statement on March 1, 1944, that "out of five million foreign workers who arrived in Germany not even 200,000 came voluntarily". Although he now claims that the statement is not true, the circumstances under which it was made, as well as the evidence presented before the Tribunal, leave no doubt ~~that~~ that it was substantially accurate.

The manner in which the unfortunate slave laborers were collected and transported to Germany, and what happened to them after they arrived, has already been described. Sauckel argues that he is not responsible for these excesses in the administration of the programme. He says that the total number of workers to be obtained was set by the demands from agriculture and from industry; that obtaining the workers was the responsibility of the occupation authorities, transporting them to Germany that of the German railways, and taking care of them in Germany that of the Ministries of Labor and Agriculture, the German Labor Front and the various industries involved. He testifies that in so far as he had any authority he was constantly urging

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humane treatment.

There is no doubt, however, that Sauckel had overall responsibility for the slave labor program. At the time of the events in question he did not fail to assert control over the fields which he now claims were the sole responsibility of others. His regulations provided that his Commissioners should have authority for obtaining labor, and he was constantly in the field supervising the steps which were being taken. He was aware of ruthless methods being taken to obtain laborers, and vigorously supported them on the ground that they were necessary to fill the quotas.

Sauckel's regulations also provided that he had responsibility for transporting the laborers to Germany, allocating them to employers and taking care of them, and that the other agencies involved in these processes were subordinate to him. He was informed of the bad conditions which existed. It does not appear that he advocated brutality for its own sake, or was an advocate of any program such as Himmler's plan for extermination through work. His attitude was thus expressed in a regulation:

> "All the men must be fed, sheltered and treated in such a way as to exploit them to the highest possible extent at the lowest conceivable degree of expenditure."

The evidence shows that Sauckel was in charge of a program which involved deportation for slave labor of more than 5,000,000 human beings many of them under terrible conditions of cruelty and suffering.

Conclusion

The Tribunal finds that Sauckel is not guilty on Count One and Two. He is guilty under Counts Three and Four.

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JODL

Jodl is indicted on all four counts. From 1935 to 1938 he was chief of the National Defense Section in the High Command. After a year in command of troops, in August 1939 he returned to become Chief of the Operations Staff of the High Command of the Armed Forces. Although his immediate superior was defendant Keitel, he reported directly to Hitler on operational matters. In the strict military sense, Jodl was the actual planner of the war and responsible in large measure for the strategy and conduct of operations.

Jodl defends himself on the ground he was a soldier sworn to obedience, and not a politician; and that his staff and planning work left him no time for other matters. He said that when he signed or initialed orders, memoranda and letters, he did so for Hitler and often in the absence of Keitel. Though he claims that as a soldier he had to obey Hitler, he says that he often tried to obstruct certain measures by delay, which occasionally proved successful as when he resisted Hitler's demand that a directive be issued to lynch allied "terror fliers".

Crimes against Peace

Entries in Jodl's diary of 13 and 14 February 1938 show Hitler instructed both him and Keitel to keep up military pressure against Austria begun at the Schuschnigg conference by simulating military measures, and that these achieved their purpose. When Hitler decided "not to tolerate" Schuschnigg's plebiscite, Jodl brought to the conference the "old draft", the existing staff plan. His diary for 10 March shows Hitler then ordered the preparation of "Case Otto", and

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the directive was initialed by Jodl. Jodl issued supplementary instructions on 11 March, and initialed Hitler's order for the invasion on the same date.

In planning the attack on Czechoslovakia, Jodl was very active, according to the Schmundt Notes. He initialed items 14, 17, 24, 36 and 37 in the Notes. Jodl admits he agreed with OKH that the "incident" to provide German intervention must occur at the latest by 1400 on X-1 Day, the day before the attack and said it must occur at a fixed time in good flying weather. Jodl conferred with the propaganda experts on "imminent common tasks" such as German violations of international law, exploitation of them by the enemy and refutations by the Germans, which "task" Jodl considered "particularly important".

After Munich, Jodl wrote:

> "Czechoslovakia as a power is out .... The genius of the Fuehrer and his determination not to shun even a World War have again won the victory without the use of force. The hope remains that the incredulous, the weak ~~meek~~ and the doubtful people have been converted and will remain that way".

Shortly after the Sudeten occupation, Jodl went to a post command and did not become Chief of the Operations Staff in OKW until the end of August, 1939.

Jodl discussed the Norway invasion with Hitler, Keitel and Raeder on 12 December 1939; his diary is replete with later entries on his activities in preparing this attack. Jodl explains his comment that Hitler was still looking for an "excuse" to move meant he was waiting for reliable intelligence on the British plans, and defends the invasion as a necessary move to forestall them. His testimony shows that from

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October 1939 Hitler planned to attack the West through Belgium, but was doubtful about invading Holland until the middle of November. On 8 February 1940, Jodl, his deputy Warlimont, and Jeschonnek, the air forces planner, discussed among themselves the "new idea" of attacking Norway, Denmark and Holland, but guaranteeing the neutrality of Belgium. Many of the 17 orders postponing the attack in the West for various reasons including weather conditions, until May 1940 were signed by Jodl.

He was active in the planning against Greece and Yugoslavia. The Hitler order of 11 January 1941 to intervene in Albania was initialed by Jodl. On 20 January, four months before the attack, Hitler told a conference of German and Italian generals in Jodl's presence that German troop concentrations in Rumania were to be used against Greece. Jodl was present on 18 March when Hitler told Raeder all Greece must be occupied before any settlement could be reached. On 27 March when Hitler told the German High Command the destruction of Yugoslavia should be accomplished with "unmerciful harshness", and the decision was taken to bomb Belgrade without a declaration of war, he was also there.

Jodl testified that Hitler feared an attack by Russia and so attacked first. This preparation began almost a year before the invasion. Jodl told Warlimont as early as 29 July 1940 to prepare the plans since Hitler had decided to attack; and Hitler later told Warlimont he had planned to attack in August 1940 but postponed it for military reasons. He initialed Hitler's directive of 12 November 1940 that preparations verbally ordered should be continued and also initialed "Case Barbarossa" on 18 December. On 3 February 1941 Hitler, Jodl and Keitel discussed

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the invasion, and he was present on 14 June when final reports on "Case Barbarossa" were made.

War Crimes and Crimes against Humanity

On 18 October 1942 Hitler issued the Commando Order and a day later a supplementary explanation to commanding officers only. The covering memorandum was signed by Jodl. Early drafts of the order were made by Jodl's staff, with his knowledge. Jodl testified he was strongly opposed on moral and legal grounds, but could not refuse to pass it on. He insists he tried to mitigate its harshness in practice by not informing Hitler when it was not carried out. He initialed the OKW memorandum of 25 June 1944 reaffirming the Order after the Normandy landings.

A plan to eliminate Soviet commissars was in the directive for "Case Barbarossa". The decision whether they should be killed without trial was to be made by an officer. A draft contains Jodl's handwriting suggesting this should be handled as retaliation, and he testified this was his attempt to get around it.

When in 1945 Hitler considered denouncing the Geneva Convention, Jodl argued the disadvantages outweighed the advantages. On 21 February he told Hitler adherence to the Convention would not interfere with the conduct of the war, giving as an example the sinking of a British hospital ship as a reprisal and calling it a mistake. He said he did so because it was the only attitude Hitler would consider, that moral or legal arguments had no effect and argues he thus prevented Hitler from denouncing the Convention.

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There is little evidence that Jodl was actively connected with the slave labour programme, and he must have concentrated on his strategic planning function. But in his speech of 7 November 1943 to the Gauleiters he said it was necessary to act "with remorseless vigor and resolution" in Denmark, France and the Low Countries to compel work on the Atlantic Wall.

By teletype of 28 October 1944, Jodl ordered the evacuation of all persons in Northern Norway and burning of their houses so they could not help the Russians. Jodl says he was against this, but Hitler ordered it and it was not fully carried out. A document of the Norwegian Government says such an evacuation did take place in Northern Norway and 30,000 houses were damaged. On 7 October 1941, Jodl signed an order that Hitler would not accept an offer of surrender of Leningrad or Moscow, but on the contrary he insisted that they be completely destroyed. He says this was done because the Germans were afraid those cities would be mined by the Russians as was Kiev. No surrender was ever offered.

His defense, in brief, is the doctrine of "superior orders", prohibited by Article 8 of the Charter as a defense. There is nothing in mitigation. Participation in such crimes as these has never been required of any soldier and he cannot now shield himself behind a mythical requirement of soldierly obedience at all costs as his excuse for commission of these crimes.

Conclusion

The Tribunal finds that Jodl is guilty on all four counts.

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VON PAPEN

Von Papen is indicted under Counts One and Two. He was appointed Chancellor of the Reich on June 1, 1932, and was succeeded by von Schleicher on December 2, 1932. He was made Vice Chancellor in the Hitler Cabinet on January 30, 1933, and on November 13, 1933, Plenipotentiary for the Saar. On July 26, 1934, he was appointed Minister to Vienna, and was recalled on February 4, 1938. On April 29, 1939, he was appointed Ambassador to Turkey. He returned to Germany when Turkey broke off diplomatic relations with Germany in August 1944.

Crimes against Peace

Von Papen was active in 1932 and 1933 in helping Hitler to form the Coalition Cabinet and aided in his appointment as Chancellor on January 30, 1933. As Vice Chancellor in that Cabinet he participated in the Nazi consolidation of control in 1933. On June 16, 1934, however, von Papen made a speech at Marburg which contained a denunciation of the Nazi attempts to suppress the free press and the church, of the existence of a reign of terror, and of "150% Nazis" who were mistaking "brutality for vitality". On June 30, 1934, in the wave of violence which accompanied the so-called Roehm Purge, von Papen was taken into custody by the SS, his office force was arrested, and two of his associates, including the man who had helped him work on the Marburg speech, were murdered. Von Papen was released on July 3, 1934.

Notwithstanding the murder of his associates von Papen accepted the position of Minister to Austria on July 26, 1934, the day after Dollfuss had been assassinated. His appointment was announced in a

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letter from Hitler which instructed him to direct relations between the two countries "into normal and friendly channels" and assured him of Hitler's "complete and unlimited confidence". As Minister to Austria, von Papen was active in trying to strengthen the position of the Nazi Party in Austria for the purpose of bringing about Anschluss. In early 1935 he attended a meeting in Berlin at which the policy was laid down to avoid everything which would give the appearance of German intervention in the internal affairs of Austria. Yet he arranged for 200,000 marks a month to be transmitted to "the persecuted National Socialist sufferers in Austria". On May 17, 1935, he reported to Hitler the results of a conference with Captain Leopold, the Leader of the Austrian Nazis, and urged Hitler to make a statement recognizing the national independence of Austria, and predicting that the result might be to help the formation of a coalition between Schuschnigg's Christian Socialists and the Austrian Nazis against Starhemberg. On July 27, 1935, von Papen reported to Hitler that the union of Austria and Germany could not be brought about by external pressure but only by the strength of the National Socialist Movement. He urged that the Austrian Nazi Party change its character as a centralized Reich German Party and become a rallying point for all National Germans.

Von Papen was involved in occasional Nazi political demonstrations, supported Nazi propaganda activities and submitted detailed reports on the activities of the Nazi Party, and routine reports relating to Austrian military defenses. His Austrian policy resulted in the agreement of July 11, 1936, which nominally restored relations between Germany and Austria to "normal and friendly form", but which had a secret supplement providing for an amnesty for Austrian Nazis, the lifting of censorship

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on Nazi papers, the resumption of political activities by Nazis and the appointment of men friendly to the Nazis in the Schuschnigg Cabinet.

After the signing of this agreement von Papen offered to resign but his resignation was not accepted. Thereafter he proceeded to bring continued pressure on the Austrian Government to bring Nazis into the Schuschnigg Cabinet and to get them important positions in the Fatherland Front, Austria's single legal party. On September 1, 1936, von Papen wrote Hitler advising him that anti-Nazis in the Austrian Ministry of Security were holding up the infiltration of the Nazis into the Austrian Government and recommended bringing "slowly intensified pressure directed at changing the regime".

On February 4, 1938, von Papen was notified of his recall as Minister to Austria, at the same time that von Fritsch, von Blomberg and von Neurath were removed from their positions. He informed Hitler that he regretted his recall because he had been trying since November 1937 to induce Schuschnigg to hold a conference with Hitler and Schuschnigg had indicated his willingness to do so. Acting under Hitler's instructions, von Papen then returned to Austria and arranged the conference which was held at Berchtesgaden on February 12, 1938. Von Papen accompanied Schuschnigg to that conference, and at its conclusion advised Schuschnigg to comply with Hitler's demands. On March 10, 1938, Hitler ordered von Papen to return to Berlin. Von Papen was in the Chancellery on March 11 when the occupation of Austria was ordered. No evidence has been offered showing that von Papen was in favor of the decision to occupy Austria by force, and

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he has testified that he urged Hitler not to take this step.

After the annexation of Austria von Papen retired into private life and there is no evidence that he took any part in politics. He accepted the position of Ambassador to Turkey in April 1939 but no evidence has been offered concerning his activities in that position implicating him in crimes.

The evidence leaves no doubt that von Papen's primary purpose as Minister to Austria was to undermine the Schuschnigg regime and strengthen the Austrian Nazis for the purpose of bringing about Anschluss. To carry through this plan he engaged in both intrigue and bullying. But the Charter does not make criminal such offenses against political morality, however bad these may be. Under the Charter von Papen can be held guilty only if he was a party to the planning of aggressive war. There is no ~~showing~~ evidence that he was a party to the plans under which the occupation of Austria was a step in the direction of further aggressive action, or even that he participated in plans to occupy Austria by aggressive war if necessary. But it is not established beyond a reasonable doubt that this was the purpose of his activity, and therefore the Tribunal cannot hold that he was a party to the common plan charged in Count One or participated in the planning of the aggressive wars charged under Count Two.

Conclusion

The Tribunal finds that von Papen is not guilty under this Indictment, and directs that he shall be discharged by the Marshal, when the Tribunal presently adjourns.

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SEYSS-INQUART

Seyss-Inquart is indicted under all four counts. Seyss-Inquart, an Austrian a ttorney, was appointed State Councillor in Austria in May 1937 as a result of German pressure. He had been associated with the Austrian Nazi Party since 1931, but had often had difficulties with that Party and did not actually join the Nazi Party until March 13, 1938. He was appointed Austrian Minister of Security and Interior with control over the police pursuant to one of the conditions which Hitler had imposed on Schuschnigg in the Berchtesgaden conference of February 12, 1938.

Activities in Austria

Seyss-Inquart participated in the last stages of the Nazi intrigue which preceded the German occupation of Austria, and was made Chancellor of Austria as a result of German threats of invasion.

On March 12, 1938, Seyss-Inquart met Hitler at Linz and made a speech welcoming the German forces and advocating the reunion of Germany and Austria. On March 13, he obtained the passage of a law providing that Austria should become a province of Germany and succeeded Miklas as President of Austria when Miklas resigned rather than sign the law. Seyss-Inquart's title was changed to Reichs Governor of Austria on March 15, 1938, and on the same day he was given the title of a General in the SS. He was made a Reichs Minister without Portfolio on May 1, 1939.

On March 11, 1939, he visited the Slovakian Cabinet in Bratislava a nd induced them to declare their independence in a way which fitted in closely with Hitler's offensive against the independence of Czechoslovakia.

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As Reichs Governor of Austria, Seyss-Inquart instituted a program of confiscating Jewish property. Under his regime Jews were forced to emigrate, were sent to concentration camps and were subject to pogroms. At the end of his regime he cooperated with the Security Police and SD in the deportation of Jews from Austria to the East. While he was Governor of Austria, political opponents of the Nazis were sent to concentration camps by the Gestapo, mistreated and often killed.

Criminal Activities in Poland and The Netherlands

In September 1939, Seyss-Inquart was appointed Chief of Civil Administration of South Poland. On October 12, 1939, Seyss-Inquart was made Deputy Governor General of the General Government of Poland under Frank. On May 18, 1940, Seyss-Inquart was appointed Reich Commissioner for occupied Netherlands. In these positions he assumed responsibility for governing territory which had been occupied by aggressive wars and the administration of which was of vital importance in the aggressive war being waged by Germany.

As Deputy Governor General of the General Government of Poland, Seyss-Inquart was a supporter of the harsh occupation policies which were put in effect. In November 1939, while on an inspection tour through the General Government, Seyss-Inquart stated that Poland was to be so administered as to exploit its economic resources for the benefit of Germany. Seyss-Inquart also advocated the persecution of Jews and was informed of the beginning of the AB action which involved the murder of many ~~Jewish~~ Polish intellectuals.

As Reichs Commissioner for Occupied Netherlands, Seyss-Inquart was ruthless in applying terrorism to suppress all opposition to the German

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occupation, a programme which he described as "annihilating" his opponents. In collaboration with the local Higher SS and Police Leaders he was involved in the shooting of hostages for offenses against the occupation authorities and sending to concentration camps all suspected opponents of occupation policies including priests and educators. Many of the Dutch police were forced to participate in these programmes by threats of reprisal against their families. Dutch courts were also forced to participate in this programme, but when they indicated their reluctance to give sentences of imprisonment because so many prisoners were in fact killed, a greater emphasis was placed on the use of summary police courts.

Seyss-Inquart carried out the economic administration of the Netherlands without regard for rules of the Hague Convention which he described as obsolete. Instead, a policy was adopted for the maximum utilization of economic potential of the Netherlands, and executed with small regard for its effect on the inhabitants. There was widespread pillage of public and private property which was given color of legality by Seyss-Inquart's regulations, and assisted by manipulations of the financial institutions of the Netherlands under his control.

As Reichs Commissioner for the Netherlands, Seyss-Inquart immediately began sending forced labourers to Germany. Up until 1942, labour service in Germany was theoretically voluntary, but was actually coerced by strong economic and governmental pressure. In 1942 Seyss-Inquart formally decreed compulsory labour service, and utilized the services of the Security Police and SD to prevent evasion of his order. During the occupation over 500,000 people were sent from the Netherlands to the

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Reich as labourers and only a very small proportion were actually volunteers.

One of Seyss-Inquart's first steps as Reich Commissioner of the Netherlands was to put into effect a series of laws imposing economic discriminations against the Jews. This was followed by decrees requiring their registration, decrees compelling them to reside in Ghettos and to wear the star of David, sporadic arrests and detention in concentration camps, and finally, at the suggestion of Heydrich, the mass deportation of almost 120,000 of Holland's 140,000 Jews to Auschwitz and the "final solution". Seyss-Inquart admits knowing that they were going to Auschwitz but claims that he heard from people who had been to Auschwitz that the Jews were comparatively well off there, and that he thought that they were being held there for resettlement after the war. In light of the evidence and on account of his official position it is impossible to believe this claim.

Seyss-Inquart contends that he was not responsible for many of the crimes committed in the occupation of the Netherlands because they were either ordered from the Reich, committed by the Army, over which he had no control, or by the German Higher SS and Police Leader, who, he claims, reported directly to Himmler. It is true that some of the excesses were the responsibility of the Army, and that the Higher SS and Police Leader, although he was at the disposal of Seyss-Inquart, could always report directly to Himmler. It is also true that in certain cases Seyss-Inquart opposed the extreme measures used by these other agencies, as when he was largely successful in preventing the Army from carrying out a scorched earth policy, and urged the Higher SS and Police Leaders to reduce the number of hostages to be shot. But the fact remains that

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Seyss-Inquart was a knowing and voluntary participant in War Crimes and Crimes against Humanity which were committed in the occupation of the Netherlands.

Conclusion

The Tribunal finds that Seyss-Inquart is guilty under Counts Two, Three and Four. Seyss-Inquart is not guilty on Count One.

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SPEER

Speer is indicted under all four counts. Speer joined the Nazi Party in 1932. In 1934 he was made Hitler's architect and became a close personal confidant. Shortly thereafter he was made a Department Head in the German Labour Front and the official in Charge of Capital Construction on the staff of the Deputy to the Fuehrer, positions which he held through 1941. On February 15, 1942, after the death of Fritz Todt, Speer was appointed Chief of the Organization Todt and Reich Minister for Armaments and Munitions (after September 2, 1943, for Armaments and War Production). The positions were supplemented by his appointments in March and April 1942 as General Plenipotentiary for Armaments and as a member of the Central Planning Board, both within the Four Year Plan. Speer was a member of the Reichstag from 1941 until the end of the war.

Crimes against Peace

The Tribunal is of opinion that Speer's activities do not amount to initiating, planning, or preparing wars of aggression, or of conspiring to that end. He became the head of the armament industry well after all of the wars had been commenced and were under way. His activities in charge of German Armament Production were in aid of the war effort in the same way that other productive enterprises aid in the waging of war; but the Tribunal is not prepared to find that such activities involve engaging in the common plan to wage aggressive war as charged under Count One or waging aggressive war as charged under Count Two.

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War Crimes and Crimes against Humanity

The evidence introduced against Speer under Counts Three and Four relates entirely to his participation in the slave labour programme. Speer himself had no direct administrative responsibility for this programme. Although he had advocated the appointment of a General Plenipotentiary for the Utilization of Labour because he wanted one central authority with whom he could deal on labour matters, he did not obtain administrative control over Sauckel. Sauckel was appointed directly by Hitler, under the decree of March 21, 1942, which provided that he should be directly responsible to Goering, as Plenipotentiary of the Four Year Plan.

As Reich Minister for Armaments and Munitions and General Plenipotentiary for Armaments under the Four Year Plan, Speer had extensive authority over production. His original authority was over construction and production of arms for the OKH. This was progressively expanded to include naval armaments, civilian production and finally, on August 1, 1944, air armament. As the dominant member of the Central Planning Board, which had supreme authority for the scheduling of German production and the allocation and development of raw materials, Speer took the position that the Board had authority to instruct Sauckel to provide labourers for industries under its control and succeeded in sustaining this position over the objection of Sauckel. The practice was developed under which Speer transmitted to Sauckel an estimate of the total number of workers needed, Sauckel obtained the labour and allocated it to the various industries in accordance with instructions supplied by Speer.

Speer knew when he made his demands on Sauckel that they would be

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supplied by foreign labourers serving under compulsion. He participated in conferences involving the extension of the slave labour programme for the purpose of satisfying his demands. He was present at a conference held during August 10 and August 12, 1942, with Hitler and Sauckel at which it was agreed that Sauckel should bring labourers by force from occupied territories where this was necessary to satisfy the labour needs of the industries under Speer's control. Speer also attended a conference in Hitler's headquarters on January 4, 1944, at which the decision was made that Sauckel should obtain "at least 4 million new workers from occupied territories" in order to satisfy the demands for labour made by Speer, although Sauckel indicated that he could do this only with help from Himmler.

Sauckel continually informed Speer and his representatives that foreign labourers were being obtained by force. At a meeting of March 1, 1944, Speer's deputy questioned Sauckel very closely about his failure to live up to the obligation to supply four million workers from occupied territories. In some cases Speer demanded labourers from specific foreign countries. Thus, at the conference August 10-12, 1942, Sauckel was instructed to supply Speer with "a further million Russian labourers for the German armament industry up to and including October 1942". At a meeting of the Central Planning Board on April 22, 1943, Speer discussed plans to obtain Russian labourers for use in the coal mines, and flatly vetoed the suggestion that this labour deficit should be made up by German labour.

Speer has argued that he advocated the reorganization of the labour programme to place a greater emphasis on utilization of German

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labour in war production in Germany and on the use of labour in occupied countries in local production of consumer goods formerly produced in Germany. Speer took steps in this direction by establishing the so-called "blocked industries" in the occupied territories which were used to produce goods to be shipped to Germany. Employees of these industries were immune from deportation to Germany as slave labourers and any worker who had been ordered to go to Germany could avoid deportation if he went to work for a blocked industry. This system, although somewhat less inhumane than deportation to Germany, ~~is~~ was still illegal. The system of blocked industries played only a small part in the overall slave labour programme and although Speer urged its cooperation with the slave labour programme knowing the way in which it was actually being administered. In an official sense, he was its principal beneficiary and he constantly urged its extension.

Speer was also directly involved in the utilization of forced labour as Chief of the Organization Todt. The Organization Todt functioned principally in the occupied areas on such projects as the Atlantic Wall and the construction of military highways, and Speer has admitted that he relied on compulsory service to keep it adequately staffed. He also used concentration camp labour in the industries under his control. He originally arranged to tap this source of labour for use in small out of the way factories; and later, fearful of Himmler's jurisdictional ambitions, attempted to use as few concentration camp workers as possible.

Speer was also involved in the use of prisoners of war in armament industries but contends that he only utilized Soviet prisoners of war in

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industries covered by the Geneva Convention.

Speer's position was such that he was not directly concerned with the cruelty in the administration of the slave labour programme, although he was aware of its existence. For example, at meetings of the Central Planning Board he was informed that his demands for labour were so large as to necessitate violent methods in recruiting. At a meeting of the Central Planning Board on October 30, 1942, Speer voiced his opinion that many slave labourers who claimed to be sick were malingerers and stated: "There is nothing to be said against SS and Police taking drastic steps and putting those known as slackers into concentration camps." Speer, however, insisted that the slave labourers be given adequate food and working conditions so that they could work efficiently.

In mitigation it must be recognized that Speer's establishment of blocked industries did keep many labourers in their homes and that in the closing stages of the war he was one of the few men who had the courage to tell Hitler that the war was lost and to take steps to prevent the senseless destruction of production facilities, both in occupied territories and in Germany. He carried out his opposition to Hitler's scorched earth programme in some of the Western countries and in Germany by deliberately sabotaging it at considerable personal risk.

Conclusion

The Tribunal finds that Speer is not guilty on Counts One and Two, but is guilty under Counts Three and Four.

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VON NEURATH

Von Neurath is indicted under all four counts. He is a professional diplomat who served as German Ambassador to Great Britain from 1930 to 1932. On June 2, 1932, he was appointed Minister of Foreign Affairs in the von Papen cabinet, a position which he held under the cabinets of von Schleicher and Hitler. Von Neurath resigned as Minister of Foreign Affairs on February 4, 1938, and was made Reich Minister without Portfolio, President of the Secret Cabinet Council and a member of the Reich Defense Council. On March 18, 1939, he was appointed Reich Protector for Bohemia and Moravia, and served in this capacity until September 27, 1941. He held the formal rank of Obergruppenfuehrer in the SS.

Crimes against Peace

As Minister of Foreign Affairs, von Neurath advised Hitler in connection with the withdrawal from the Disarmament Conference and the League of Nations on October 14, 1933; the institution of rearmament; the passage on March 16, 1935, of the law for universal military service; and the passage on May 21, 1935, of the secret Reich Defense Law. He was a key figure in the negotiation of the Naval Accord entered into between Germany and England on June 18, 1935. He played an important part in Hitler's decision to reoccupy the Rhineland on March 7, 1936, and predicted that the occupation could be carried through without any reprisals from the French. On May 18, 1936, he told the American Ambassador to France that it was the policy of the German Government to do nothing in foreign affairs until "the Rhineland had been digested", and that as soon

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as the fortifications in the Rhineland had been constructed and the countries of central Europe realized that France could not enter Germany at will, "all those countries will begin to feel very differently about their foreign policies and a new constellation will develop".

Von Neurath took part in the Hoszbach conference of November 5, 1937. He has testified that he was so shocked by Hitler's statements that he had a heart attack. Shortly thereafter, he offered to resign, and his resignation was accepted on February 4, 1938, at the same time that von Fritsch and von Blomberg were dismissed. Yet with knowledge of Hitler's aggressive plans he retained a formal relationship with the Nazi regime as Reichs Minister without Portfolio, President of the Secret Cabinet Council and a member of the Reichs Defense Council. He took charge of the Foreign Office at the time of the occupation of Austria, assured the British Ambassador that this had not been caused by a German ultimatum, and informed the Czechoslovakian Minister that Germany intended to abide by its arbitration convention with Czechoslovakia. Von Neurath participated in the last phase of the negotiations preceding the Munich Pact but contends that he entered these discussions only to urge Hitler to make every effort to settle the issues by peaceful means.

Criminal Activities in Czechoslovakia

Von Neurath was appointed Reichs Protector for Bohemia and Moravia on March 18, 1939. Bohemia and Moravia were occupied by military force. Hacha's consent, obtained as it was by duress, cannot be considered as justifying the occupation. Hitler's ~~proclamation~~ decree of March 16, 1939, establishing the Protectorate, stated that this new territory should "belong henceforth to the territory of the German Reich", an assumption that the

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Republic of Czechoslovakia no longer existed. But it also went on the theory that Bohemia and Moravia retained their sovereignty subject only to the interests of Germany as expressed by the Protectorate. Therefore even if the doctrine of subjugation should be considered to be applicable to territory occupied by aggressive action, the Tribunal does not believe that this Proclamation amounted to an incorporation which was sufficient to bring the doctrine into effect. The occupation of Bohemia and Moravia must therefore be considered a military occupation covered by the rules of warfare. Although Czechoslovakia was not a party to the Hague Convention of 1907, the rules of land warfare expressed in this Convention are declaratory of existing international law and hence are applicable.

As Reichs Protector, von Neurath instituted an administration in Bohemia and Moravia similar to that in effect in Germany. The free press, political parties and trade unions were abolished. All groups which might serve as opposition were outlawed. Czechoslovakian industry was worked into the structure of German war production, and exploited for the German war effort. Nazi anti-Semitic policies and laws were also introduced. Jews were barred from leading positions in Government and business.

In August 1939, von Neurath issued a proclamation warning against any acts of sabotage and stating that "the responsibility for all acts of sabotage is attributed not only to individual perpetrators but to the entire Czech~~oslovakian~~ population". When the war broke out on September 1, 1939, 8,000 prominent Czechs were arrested by the Security Police in Bohemia and Moravia and put into protective custody. Many of this group died in concentration camps as a result of mistreatment.

In October and November 1939, Czechoslovakian students held a series of demonstrations. As a result, on Hitler's orders, all universities

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were closed, 1200 students imprisoned, and the nine leaders of the demonstration shot by Security Police and SD . Von Neurath testified that he was not informed of this action in advance, but it was announced by proclamation over his signature posted on placards throughout the Protectorate, which he claims, however, was done without his authority.

On August 31, ~~1939~~ 1940, von Neurath transmitted to Lammers a memorandum which he had prepared dealing with the future of the Protectorate, and a memorandum with his approval prepared by Carl Herman Frank on the same subject. Both dealt with the question of Germanization and proposed that the majority of the Czechs might be assimilated racially into the German nation. Both advocated the elimination of the Czechoslovakian intelligentsia and other groups which might resist Germanization, von Neurath's by expulsion, Frank's by expulsion or "special treatment".

Von Neurath has argued that the actual enforcement of the repressive measures was carried out by the Security Police and SD who were under the control of his State Secretary, Carl Herman Frank, who was appointed at the suggestion of Himmler and who, as a Higher SS and Police Leader, reported directly to Himmler. Von Neurath further argues that anti-Semitic measures and those resulting in economic exploitation were put into effect in the Protectorate as the result of policies decided upon in the Reich. However this may be, he served as the chief German official in the Protectorate when the administration of this territory played an important role in the wars of aggression which Germany was waging in the East, knowing that War Crimes and Crimes against Humanity were being committed under his authority.

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In mitigation it must be remembered that he did intervene with the Security Police and SD for the release of many of the Czechoslovaks who were arrested on September 1, 1939, and for the release of students arrested later in the fall. On September 23, 1941, he was summoned before Hitler and told that he was being not harsh enough and that Heydrich was being sent to the Protectorate to combat the Czechoslovakian resistance groups. Von Neurath attempted to dissuade Hitler from sending Heydrich, and when he was not successful offered to resign. When his resignation was not accepted he went on leave, on September 27, 1941, and refused to act as Protector after that date. His resignation was formally accepted in August 1943.

Conclusion

The Tribunal finds that Von Neurath is guilty under all Four Counts.

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FRITZSCHE

Fritzsche is indicted on Counts One, Three and Four. He was best known as a radio commentator, discussing once a week the events of the day on his own programme, "Hans Fritzsche Speaks". He began broadcasting in September 1932; in the same year he was made the head of the Wireless News Service, a Reich Government agency. When on May 1, 1933, this agency was incorporated by the National Socialists into their Reich Ministry of Popular Enlightenment and Propaganda, Fritzsche became a member of the Nazi Party and went to that Ministry. In December 1938 he became head of the Home Press Division of the Ministry; in October 1942 he was promoted to the rank of Ministerial Director. After serving briefly on the Eastern Front in a propaganda company, he was, in November 1942, made head of the Radio Division of the Propaganda Ministry and Plenipotentiary for the Political Organization of the Greater German Radio.

Crimes against Peace

As head of the Home Press Division, Fritzsche supervised the German press of 2,300 daily newspapers. In pursuance of this function he held daily press conferences to deliver the directives of the Propaganda Ministry to these papers. He was, however, subordinate to Dietrich, the Reich Press Chief, who was in turn a subordinate of Goebbels. It was Dietrich who received the directives to the press of Goebbels and other Reich Ministers, and prepared them as instructions, which he then handed to Fritzsche for the press.

From time to time, the "Daily Paroles of the Reich Press Chief", as these instructions were labelled, directed the press to present to

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the people certain themes, such as the leadership principle, the Jewish problem, the problem of living space, or other standard Nazi ideas. A vigorous propaganda campaign was carried out before each major act of aggression. While Fritzsche headed the Home Press Division, he instructed the press how the actions or wars against Bohemia and Moravia, Poland, Yugoslavia, and the Soviet Union should be dealt with. Fritzsche had no control of the formulation of these propaganda policies. He was merely a conduit to the press of the instructions handed him by Dietrich. In February 1939 and before the absorption of Bohemia and Moravia, for instance, he received Dietrich's order to bring to the attention of the press Slovakia's efforts for independence, and the anti-Germanic policies and politics of the existing Prague Government. This order to Dietrich originated in the Foreign Office.

The Radio Division, of which Fritzsche became the head in November 1942, was one of the twelve divisions of the Propaganda Ministry. In the beginning Dietrich and other heads of divisions exerted influence over the policies to be followed by Radio. Towards the end of the war, however, Fritzsche became the sole authority within the Ministry for radio activities. In this capacity he formulated and issued daily radio "paroles" to all Reich Propaganda Offices, according to the general political policies of the Nazi regime, subject to the directives of the Radio-Political Division of the Foreign Office, and the personal supervision of Goebbels.

Fritzsche, with other officials of the Propaganda Ministry, was present at Goebbels' daily staff conferences. Here they were instructed in the news and propaganda policies of the day. After 1943 Fritzsche

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himself occasionally held these conferences, but only when Goebbels and his State Secretaries were absent. And even then his only function was to transmit the Goebbels' directives relayed to him by telephone.

This is the summary of Fritzsche's positions and influence in the Third Reich. Never did he achieve sufficient stature to attend the planning conferences which led to aggressive war; indeed according to his own uncontradicted testimony he never even had a conversation with Hitler. Nor is there any showing that he was informed of the decisions taken at these conferences. His activities cannot be said to be those which fall within the definition of the common plan to wage aggressive war as already set forth in this Judgment.

War Crimes and Crimes against Humanity

The prosecution has asserted that Fritzsche incited and encouraged the commission of war crimes, by deliberately falsifying news to arouse in the German people those passions which led them to the commission of atrocities under Counts Three and Four. His position and official duties were not sufficiently important, however, to infer that he took part in originating or formulating propaganda campaigns.

Excerpts in evidence from his speeches show definite anti-Semitism on his part. He broadcast, for example, that the war had been caused by Jews and said their fate had turned out "as unpleasant as the Fuehrer predicted". But these speeches did not urge persecution or extermination of Jews. There is no evidence that he was aware of their extermination in the East. The evidence moreover shows that he twice attempted to have publication of the anti-Semitic "Der Stürmer" suppressed, though unsuccessfully.

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In these broadcasts Fritzsche sometimes spread false news, but it was not proved he knew it to be false. For example, he reported that no German U-Boat was in the vicinity of the "Athenia" when it was sunk. This information was untrue; but Fritzsche, having received it from the German Navy, had no reason to believe it was untrue.

It appears that Fritzsche sometimes made strong statements of a propagandistic nature in his broadcasts. But the Tribunal is not prepared to hold that they were intended to incite the German people to commit atrocities on conquered peoples, and he cannot be held to have been a participant in the crimes charged. His aim was rather to arouse popular sentiment in support of Hitler and the German war effort.

Conclusion

The Tribunal finds that Fritzsche is not guilty under this Indictment, and directs that he shall be discharged by the Marshal when the Tribunal presently adjourns.

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BORMANN

Bormann is indicted on Counts One, Three and Four. He joined the National Socialist Party in 1925, was a member of the Staff of the Supreme Command of the SA from 1928 to 1930, was in charge of the Aid Fund of the Party, and was Reichleiter from 1933 to 1945. From 1933 to 1941 he was Chief of Staff in the Office of the Fuehrer's Deputy and, after the flight of Hess to England, became Head of the Party Chancellery on 12 May 1941. On 12 April 1943 he became Secretary to the Fuehrer. He was political and organizational head of the Volkssturm and a General in the SS.

Crimes against Peace

Bormann, in the beginning a minor Nazi, steadily rose to a position of power and, particularly in the closing days, of great influence over Hitler. He was active in the Party's rise to power and even more so in the consolidation of that power. He devoted much of his time to the persecution of the churches and of the Jews within Germany.

The evidence does not show that Bormann knew of Hitler's plans to prepare, initiate or wage aggressive wars. He attended none of the important conferences when Hitler revealed piece by piece these plans for aggression. Nor can knowledge be conclusively inferred from the positions he held. It was only when he became Head of the Party Chancellery in 1941, and later in 1943 secretary to the Fuehrer when he attended many of Hitler's conferences, that his positions gave him the necessary access. Under the view stated elsewhere which the Tribunal has taken of the conspiracy to wage aggressive war, there is not sufficient evidence to bring

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Bormann within the scope of Count One.

War Crimes and Crimes against Humanity

By decree of 29 May 1941 Bormann took over the offices and powers held by Hess; by decree of 24 January 1942 these powers were extended to give him control over all laws and directives issued by Hitler. He was thus responsible for laws and orders issued thereafter. On 1 December 1942, all Gaus became Reich Defense districts, and the Party Gauleiters responsible to Bormann were appointed Reich Defense Commissioners. In effect, this made them the administrators of the entire civilian war effort. This was so not only in Germany, but also in those territories which were incorporated into the Reich from the absorbed and conquered territories.

Through this mechanism Bormann controlled the ruthless exploitation of the subjected populace. His order of 12 August 1942 placed all party agencies at the disposal of Himmler's program for forced resettlement and denationalization of persons in the occupied countries. Three weeks after the invasion of Russia, he attended the conference of 16 July 1941 at Hitler's field quarters with Goering, Rosenberg and Keitel; Bormann's report shows that there were discussed and developed detailed plans of enslavement and annihilation of the population of these territories. And on 8 May 1942 he conferred with Hitler and Rosenberg on the forced resettlement of Dutch personnel in Latvia, the extermination program in Russia, and the economic exploitation of the Eastern Territories. He was interested in the confiscation of art and other properties in the East. His letter of 11 January 1944 called for the creation of a large-scale organization to withdraw commodities from the occupied territories for the bombed-out

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German populace.

Bormann was extremely active in the persecution of the Jews not only in Germany but also in the absorbed or conquered countries. He took part in the discussions which led to the removal of 60,000 Jews from Vienna to Poland in cooperation with the SS and the Gestapo. He signed the decree of 31 May 1941 extending the Nürnberg Laws to the annexed Eastern Territories. In an order of 9 October 1942 he declared that the permanent elimination of Jews in Greater German territory could no longer be solved by emigration, but only by applying "ruthless force" in the special camps in the East. On 1 July 1943 he signed an ordinance withdrawing Jews from the protection of the law courts and placing them under the exclusive jurisdiction of Himmler's Gestapo.

Bormann was prominent in the slave labor program. The Party Leaders supervised slave labour matters in the respective Gaus, including employment, conditions of work, feeding and housing. By his circular of 5 May 1943 to the Leadership Corps, distributed down to the level of Ortsgruppenleiters, he issued directions regulating the treatment of foreign workers, pointing out they were subject to SS control on security problems, and ordered the previous mistreatment to cease. A report of 4 September 1942 relating to the transfer of 500,000 female domestic workers from the East to Germany showed that control was to be exercised by Sauckel, Himmler and Bormann. Sauckel by decree of 8 September directed the Kreisleiters to supervise the distribution and assignment of these female labourers.

Bormann also issued a series of orders to the Party Leaders dealing with the treatment of prisoners of war. On 5 November 1941 he prohibited decent burials for Russian prisoners of war. On 25 November 1943 he

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directed Gauleiters to report cases of lenient treatment of prisoners of war. And on 13 September 1944 he ordered liaison between the Kreisleiters with the camp commandants in determining the use to be made of prisoners of war for forced labour. On 29 January 1943 he transmitted to his leaders OKW instructions allowing the use of fire arms, and corporal punishment on recalcitrant prisoners of war contrary to the Rules of Land Warfare. On 30 September 1944 he signed a decree taking from the OKW jurisdiction over prisoners of war and handing them over to Himmler and the SS.

Bormann is responsible for the lynching of Allied airmen. On 30 May 1944 he prohibited any police action or criminal proceedings against persons who had taken part in the lynching of Allied fliers. This was accompanied by a Goebbels' propaganda campaign inciting the German people to take action of this nature, and the conference of 6 June 1944 where regulations for the application of lynching were discussed.

His counsel, who has laboured under difficulties, was unable to refute this evidence. In the face of these documents which bear Bormann's signature it is difficult to see how he could do so even were the defendant present. Counsel has argued that Bormann is dead and that the Tribunal should not avail itself of Article 12 of the Charter which gives it the right to take proceedings in absentia. But the evidence of death is not conclusive, and the Tribunal, as previously stated, determined to try him in absentia. If Bormann is not dead and is later apprehended, the Control Council for Germany may, under Article 29 of the Charter, consider any facts in mitigation, and alter or reduce his sentence, if deemed proper.

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Conclusion

The Tribunal finds that Bormann is not guilty on Count One, but is guilty on Counts Three and Four.

1. October - 1946

Geoffrey Lawrence
President

Norman Birkett.

John J. Parker

Francis Biddle

H. Donnedieu de Vabres

A. Volchkov

Judgment English

Original

Original Copy of Judgment

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